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LEGISLATIVE RESEARCH BUREAU

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The Commonwealth of Massachusetts

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DANIEL M. O'SULLIVAN, *Director*
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April 13, 1983

Senator Allan R. McKinnon
Room 321, State House
Boston, MA 02133

Dear Senator:

In response to your request that the Legislative Research Bureau make an in-depth study of the economic and social consequences of introducing legalized casino gambling into the Commonwealth, the Bureau attaches herewith a report entitled Casino Gambling.

The report addresses three major areas of concern: economic, crime, and government regulation and control. The report is a fact-finding document and contains no recommendations.

The report was prepared by Charles R. Ring and Robert D. Webb of the Bureau staff.

Sincerely yours,

Daniel M. O'Sullivan, Director
Legislative Research Bureau

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CASINO GAMBLING

CHAPTER I. INTRODUCTION

Origin and Scope of Study

In response to a request of Senator Allan R. McKinnon (D) of the Norfolk and Plymouth District, this report discusses (a) the impact of casino gambling in jurisdictions where it has been legalized and (b) the probable social and economic impacts of legalizing casino gambling in Massachusetts.

Research on this report began in November 1981 with a tentative completion date of mid-1982. By the late spring of 1982, it became apparent that the time frame required for identifying, collecting, analyzing and interpreting the requisite data was not sufficient if the bulk of the pertinent information was to be assimilated. Thus, it was decided to defer the completion of the report to the spring of 1983 when the findings would be more useful for legislative consideration.

In line with Bureau policy this is a factual report without recommendations. The report was prepared by Charles R. Ring and Robert D. Webb of the Bureau staff.

While the Bureau owes thanks to a number of individuals in public and private life for furnishing source material, it would be remiss not to extend particular gratitude to the following persons: Elizabeth Gieger, Massachusetts State Library; Professor William R. Eadington, University of Nevada-Reno; Peter Reuter, Rand Corporation; Michael Hawkins, Esq., Rutgers University; Robert Sturges, Esq., New Jersey Division of Gaming Enforcement; William J. Downey, Atlantic City Casino Hotel Association; Professor Charles Tantillo, Stockton State College, Pomona, N.J.; Professor Elizabeth Elmore, Stockton State College; Maurice S. Shier, New Jersey Office of Legislative Services; Dr. John Dombrink, Center for Law and Society, Stanford University; Frederick O'R. Hayes, Hayes Associates, Lexington, Mass.,;

M.J. Rossant,
/ Twentieth Century Fund, New York; Thomas M. O'Neill, Editor of the New Jersey
Reporter; and Colin Campbell, University of Calgary, Alberta, Canada.

To Legalize Or Not To Legalize:
No Simple Answer

It is the Legislature which must ultimately be the decision-maker in any question over the legalization of casinos. It is the Legislature which must weigh and balance and test the arguments, pro and con. As expressed by two authorities on enforcement of casino gaming legislation:

"On the shoulders of the governmental leaders rests the duty to choose whether to unlock the centuries-old gate that prohibited the entry of casino gaming, or, whether to keep that gate firmly in place and keep the key to that lock safely tucked away where it has always been."¹

There is no simple answer to the question. The Legislature and other public leaders continue to be bombarded with arguments on both sides of the issue. Some of these arguments address esoteric areas with which the ordinary legislator has no familiarity; others involve questions that are emotionally charged.

Originally, the quest for information on the legalization of casino gambling was quite limited because of the dearth of experience upon which to draw. In Nevada, legislators, when they began considering statutory and regulatory controls, had to contend with questions that were novel and thus their response was to work out solutions to many problems on a trial and error basis.

By the time the New Jersey Legislature took up the question, there was existing legislation throughout the world, books and treatises on the subject to study, governmental and private parties with expertise in selected aspects of the casino gaming industry to consult, and on-site observations possible in Nevada, the Bahamas, Puerto Rico and Europe.

¹ G. Michael Brown and Guy S. Michael, "The Way to Do It," Public Gaming, December 1982, p. 37. Mr. Brown is former Director of the New Jersey Division of Gaming Enforcement. Mr. Michael is former Chief of the Legal Section, New Jersey Division of Gaming Enforcement. They currently are partners in a private law firm which served as a consultant to the states of Queensland and Victoria in Australia on gaming proposals.

From these jurisdictions and published materials, New Jersey could take what was tried and proved and adapt it to its own needs. "What resulted in New Jersey was an amalgam of what was perceived at the time as the most effective methods of casino operation and control found throughout the world,"¹ along with its own unique features developed from the minds of those who were responsible for devising the system or advising on it. Even so, the control system is not without its flaws or its critics.

Since the advent of the New Jersey experience, authorities in Queensland, Australia have followed a similar tack, looking not only to the European and American experiences but to Asian as well, such as Macao and Malaysia. Queensland² enacted casino legislation in November 1982. Another Australian state, Victoria, recently created a Board of Inquiry to study the casino question and to recommend to the Parliament whether or not casinos should be legalized and, if so, how. The Board of Inquiry, whose members have already travelled about the world collecting information, and who have conducted public hearings on the issue, began their work in May 1982 with a target date of 90 days to complete their work. So complex did they find the subject and so diverse are positions and views on the issues, the³ Board's term was extended through April 1983.

Given the complexity of the subject, such delays are quite common. For example, the Twentieth Century Fund in New York has been studying the casino experience in Atlantic City for more than two years. A manuscript of the final report has been in the editing stage for several months. According to a source at the Twentieth Century Fund, the lengthy editorial process is necessitated by the intricacy of the issues and the conflicting interpretations of data among the several contributors.

¹ Ibid., p. 33.

² Ibid.

³ Ibid., p. 42.

In short, the education process on this issue, if it is to be sound and fruitful, requires long hours of patient study and assimilation. Every jurisdiction that has deliberated over the legalization of casino gambling in recent years has had its own goals to consider which, in turn, dictate what features might best be incorporated in the design of a control mechanism. Obviously, the purpose for which casino operations are to be legalized is the most important factor in developing such a design. If the goal is social control, such as in England, the control design will be radically different than one where the goal is principally to raise revenues such as in Nevada, or where the goal is the revitalization of a tourist resort, such as in New Jersey.

The Trend in Legal Gaming Activity

Ever since the founding of the Republic, government policy towards¹ gambling has vacillated between prohibition and permissiveness. State and local governments have been torn between the desire to legalize gambling in order to tax it, and the equally compelling need to curb gambling-related corruption and social harm. The result, according to most experts, has been the formulation of policies² which are largely ineffective in achieving either goal.

In recent years, there has been a decisive turn towards permissiveness. Indeed, if present trends continue, the 1970's will have marked a watershed in the availability, size and legitimization of the gaming industry. As of 1970, only seven states permitted greyhound racing, one state had legalized jai lai and none of the states had off-track betting. As of 1981, the equivalent figures were 14, 4 and 3, respectively. Gambling's new respectability is best indicated by the spread of state operated lotteries and numbers games. Controversial at their inception, these games have become an increasingly acceptable

¹ The Twentieth Century Fund, Easy Money, 1974, p. 3.

² Maureen Kallick-Kaufman, "The Micro and Macro Dimensions of Gambling in the United States," Journal of Social Issues, Vol. 35, No. 3, 1979, p. 7.

adjunct to conventional revenue raising measures and are now operated by 17 states and the District of Columbia. Even casino gambling, by far the most controversial form of commercial gambling, has made inroads towards legitimization in recent years. In 1976, the voters of New Jersey elected to authorize casino gambling in Atlantic City, thus ending Nevada's almost 50-year monopoly of legal casino gambling in the continental United States. Constitutional or statutory proposals calling for the legalization of casino gambling have been considered by the legislatures of at least a dozen states since 1970. In a few states, legislative rejection of casino measures have sparked efforts to permit casino gambling through the initiative process.

Despite the ongoing debate over the positive and negative effects of gambling, it is now generally accepted that gambling is inevitable. As William R. Eadington has observed, "where legal gambling is prohibited, illegal gambling usually abounds...(S)o it is naive to assume that the choice for any state is between legalized gambling and no gambling at all."¹ The Commission on the Review of the National Policy Toward Gambling concurred, noting that "no matter what is said or done by advocates or opponents of gambling in all its various forms, it is an activity that is practiced, or tacitly endorsed, by a substantial majority of Americans."² During the 1960's, subjective religious and moral arguments that gambling in any form is evil and should be prohibited have given way to the view that individuals are the best judge of their own welfare and should be allowed the widest possible latitude in satisfying their desires. The central public policy question has become whether the costs to society at large, or some group in particular, are sufficient to justify the continued suppression of an activity that a

¹ William R. Eadington, "Some Observations on Legalized Gambling," in Gambling and Society, Ed. William R. Eadington and Charles C. Thomas, Springfield, Ill., 1976, p. 48.

² Commission on the Review of the National Policy Toward Gambling, Gambling In America, 1976, p. 1.

substantial majority of Americans enjoy. Thus, the purpose of this report is to identify the benefits and costs which will result from the legalization of casino gambling.

The Cost-Benefit Debate Over Legalizing Casino Gambling

Thousands of new jobs, millions of dollars of new tax revenues and tens of millions of dollars of new capital investment are all available to a jurisdiction which opts to legalize casino gambling. Despite these seemingly irresistible benefits, proposals to legalize casino gambling inevitably evoke intense opposition. In some cases, the objections are based upon circumstances particular to casino gambling. Just as often, however, they are common to any proposal which will upset the economic and social status quo.

An example of the former is the widely held belief that the casino industry and organized crime are inextricably linked. Persons holding this view, which includes the majority of law enforcement officials, point to the periodic revelations of organized crime's involvement in the industry in Nevada and, to a lesser extent, New Jersey. This involvement can take two forms. In Nevada, there have been several incidents where organized criminal syndicates have been shown to be directly involved in the ownership and control of casino operations. In New Jersey, the threat of organized crime has taken a different form. Prevented from gaining direct ownership or control of the casinos by New Jersey's strict licensing requirements and background investigations, the Mob has turned its attention to infiltrating labor unions and businesses which supply the casinos. Opponents of legalizing casinos in Massachusetts and elsewhere believe these incidents conclusively demonstrate the inability of control statutes, no matter how strictly drawn and enforced, to prevent criminal elements from tainting the industry. It is naive, they allege, to suggest that the legalization of casino gambling is not tantamount to an open invitation to organized crime.

A subsidiary argument holds that casinos are parasitic enterprises which produce nothing of value, undermine the work ethic with false promises of easy riches, divert large sums of money from the legitimate market place and prey on those least able to afford its influence. According to this view, easy access to casino gambling will stimulate a massive increase in compulsive gambling and generate myriad adverse social consequences.

Another source of opposition to the introduction of casino gambling is the threat it poses to interests served by the social and economic status quo. Opposition of this sort is common to any proposal from which some individuals will derive substantial benefits while others will suffer a net loss. Potential beneficiaries of legalizing casino gambling include (1) the owners and operators of the casino facility; (2) individuals who increase their income by shifting to casino related employment; (3) businesses which supply goods or services to the casinos, their employees and their patrons; (4) communities which receive new tax revenues in excess of casino-induced increases in municipal outlays; (5) property owners who realize capital gains from increasing real estate values; and (6) persons who enjoy gambling at casinos.

Obvious losers include (1) the owners and employees of businesses unable to compete with the casino for the public's entertainment expenditures in general and gambling expenditures in particular; (2) property owners who cannot afford to meet rising property taxes; (3) individuals for whom the presence of a casino detracts from the quality of their community; (4) communities for which increased tax revenues are insufficient to cover rising municipal costs; and (5) persons who become addicted to and are ultimately destroyed by the appeal of casino gambling.

Some Preliminary Remarks on Areas of Concentration

In this report, there are three principal areas of discussion: the economic issues raised in the debate over legalization; the issue of casinos and crime; and the governmental approaches to control and regulation of the industry.

In a closing chapter, there is a discussion of the strategy and tactics employed by proponents and opponents in recent referenda campaigns.

Some preliminary remarks are appropriate to explain why particular areas of concentration emerge in the report.

In the treatment of economic impact, considerable discussion is devoted to Atlantic City. The principal reason for giving such extended coverage to the Atlantic City experience, as opposed to any of the many other jurisdictions around the world which have legalized casino gambling, was the absence of any objective¹ analysis of the subject by other sources. Individuals on both sides of the debate over legalizing casino gambling in Massachusetts have used the Atlantic City experience to buttress their respective positions. They have drawn their information from different sources and have, for the most part, presented only those conclusions which are favorable to their position. Hopefully, the discussion herein will clear up many of the distortions and ambiguities which have resulted from this practice. With those clarifications, the lessons learned from Atlantic City and other jurisdictions are then applied to a hypothetical host site in Massachusetts.

A substantial portion of this report addresses the problem of casinos and crime. The attention given to organized crime may well provoke comments that the problem is overstated. Certainly, as recent as 1976, the Commission on the Review² of the National Policy Toward Gambling in America was of the view that the presence

¹ According to Gaming Business Magazine, May 1981, there are about 720 casinos existing around the world in 63 jurisdictions. Among the unlikely places where casinos are located are Bophutswana, Ghana, Nepal, New Caledonia, Senegal, Swaziland and Togo.

² The Commission was mandated by the Organized Crime Control Act of 1970. It was initially a response to a concern about the spread of legalized gambling and the growth of federal involvement in enforcement against illegal gambling. The Commission was intended, in part, as a vehicle for determining whether there was a need for a "national policy" toward gambling. The Commission, however was not funded until fiscal 1974, receiving barely half of what it requested and experiencing a near-cut of most of its requested funds in fiscal 1975. Congressional members of the Commission gave it very light support or interest. Reuter, note - infra, pp. 167-168.

of organized crime in Nevada had been reduced to a negligible level compared to the situation there 15 years previous. And as indicated in this report, New Jersey law enforcement officials are confident that there has been no penetration by organized crime of the management and control levels at the Atlantic City casinos.

However, one is hesitant to place too much stock in the statements of the aforecited National Commission when Peter Reuter, its former director of research, in an analysis of the Commission's final report, argues that the research was used¹ only where it fitted the Commission's views and was ignored where it did not. The Commission's statement that the presence of organized crime in Nevada had been reduced to a comparatively negligible level and its view that the state has sufficiently stringent casino regulations and effective enforcement evoked the following comment by Reuter:

This is probably the most ringing endorsement of the honesty of the industry yet provided by any outside body. No research or investigation was cited to back the conclusion, which rested almost entirely on testimony from Nevada officials and casino executives at hearings held in Nevada. (Emphasis added).²

Reuter cites several examples of illogical and inconsistent positions adopted by the Commission in its final report. In part, this is explained by the Commission's attitude toward its own research findings when it formulated conclusions and recommendations. According to Reuter, "Research results were simply potential ammunition for taking a position. If favorable data were available, then they were used. Where data were in contradiction to the Commission's position, they³ were ignored."

¹ Peter Reuter, "Easy Sport: Research and Relevance," 35 Journal of Social Issues 166 (1979). Mr. Reuter, now with the Rand Corporation, was then an economist with the Center for Research on Institutions and Social Policy, New York. From 1974 to 1976 he was Research Director for the Commission on the Review of the National Policy Toward Gambling.

² Ibid., pp. 170-171.

³ Ibid., p. 175.

Of relevance is Reuter's assessment of one of the unusual difficulties the Commission faced:

...many of the topics that the Report attempted to deal with did not lend themselves to research at all. In particular, research on corruption and organized crime is still an infant field, and may well remain so. That suggests either that the Commission should have viewed itself as an investigatory body, and recruited an appropriate staff, or that it should not have made statements on certain matters.¹

Reuter's comments are applicable here because notwithstanding the views of the National Commission on the "negligible" presence of organized crime in Nevada, and the confidence expressed by New Jersey authorities, cited above, there is continuing evidence that organized crime is alive and well in Nevada, and that organized crime members are turning up in Atlantic City casinos converting credit extended by the casinos to cash to support their illegal activities. In both jurisdictions, the evidence has been uncovered by investigatory agencies that are not part of the states' casino regulatory operations.

In a sense, an objective discussion of casinos and crime is an extremely difficult exercise. On the one hand, no one who has researched the casino industry in depth could, in fairness, describe the casino industry as criminal-infested. On all the evidence, it would appear that nearly all casinos are law-abiding entities. The millions of people who patronize the casinos are mostly decent persons who gamble for pleasure or excitement, always in hopes of beating the house.

But, it is incontrovertible that licensed, law-abiding casinos also attract criminals. Of the millions of casino visitors, even a very minute percentage who have criminal intentions can amount to a very awesome number of undesirables. Such criminals include the petty and the grand, the vulgar and the charming, the obvious and the subtle, the simple and the sophisticated -- in all forms and appearances, some blatantly obvious, some cleverly disguised. Their single, common objective is to obtain by unlawful means a share of the immense wealth that is present in and about the casinos.

¹ Ibid., p. 178.

This is not to say that the attraction of the criminal element, be it organized or not, is beyond the government's capacity to control it. But there is a price. Vast amounts of time and money are required to regulate casino operations in Nevada and New Jersey.

One cause for the focus on organized crime in this report is that throughout the literature giving proponents' views on casinos and crime there are two points in their arguments that recur with a frequency that is bothersome. The first point is that the threat of organized crime is greatly overrated, that its threat to the casinos and related activity is deliberately magnified by law enforcement groups and by casino opponents for self-serving purposes. The second point is that even if these "puffed up" claims were true, organized crime can be effectively neutralized by a strong control statute buttressed by a formidable government regulatory apparatus.

On first impression these arguments can be very persuasive. On any given controversial issue, one side may indeed inflate an external threat, particularly when it is self-serving to do so. And to counter such exaggeration, the other side may answer that even if a perceived threat is potentially harmful, one can erect effective barricades and operate within the perimeter of a strong security system.

What is bothersome about this kind of thinking is that there is in it, a haunting similarity to some of the rationalizations that were the bases of classic misjudgments in history. One need only be reminded of the fateful consequences that flowed from complacent military minds that one's defenses are more than adequate to meet a direct challenge and that in any event, no foe could conceive a means of circumventing them. One such example was the defense plan for the British bastion at Singapore. So confident were the British that no enemy could penetrate the jungle to the rear of the fortress, all of its great guns were irreversibly pointed toward the sea. The guns were never fired. The enemy assault came from the rear. The irony in this misjudgment and similar flawed military strategies

is that the warning lamps of history were brightly lit by precedent to prove that the impossible was not only possible but probable.

The point to be underscored is that there is a parallel line of argument that can be applied to the issue of legalizing casino operations. In organized crime there is a relentless, tenacious, highly disciplined body of criminal minds whose intelligence apparatus is finely tuned, constantly probing for the soft spot in the defenses erected to foil any assault.

Indeed, the Assistant Director of the FBI was recently quoted as saying, "We could incarcerate the top leaders of every (Mafia) family and likely not put them out of business."¹ The consensus of many criminal investigators is that the nation's 25 Mafia "families" remain the least penetrable and most resilient criminal enterprises in the United States. Their survival, despite the federal government's \$100 million-a-year campaign, has convinced some authorities that the Mafia is a permanent feature of American society.²

For this reason, there is merit in the opponents' argument that anyone who believes that the minds of sophisticated criminals cannot devise a means of circumventing governmental defenses is either naive or ignorant. On this train of thought, it is recalled that someone with wisdom has observed that while we cannot always predict what our enemies will do, we must always anticipate what they are capable of doing. If this advice is taken, a major consideration in any legalization of casino operations would be to prepare a regulatory plan that both recognizes and anticipates the ability of the adversary. But it would be folly to assume that even the best written control statute can be a fail-safe control mechanism or that the best devised regulatory operation will not be subject to human errors or weaknesses in its implementation.

¹ Wall Street Journal, January 25, 1983.

² Ibid.

Thus, the extensive treatment of crime and regulatory control systems in these pages is deliberate. Organized crime is the dominant issue raised against the legalization of casino gambling. It is an issue on which the legislator cannot afford to make a misjudgment. To avoid that pitfall, the legislator should be acutely aware of the nature and capability of the principal threat to honest casino operations and equally heedful of the regulatory scheme proposed to contain that threat.

CHAPTER II. ATLANTIC CITY: BCOM OR BUST?

Overview

Casino gambling is advanced as a means of creating jobs, generating tax revenues and revitalizing economically-depressed communities. Obviously, these three goals are closely linked. The revitalization of a depressed local economy requires new jobs and an expanded tax base; increased employment generates new tax revenues from a variety of direct and indirect sources. Notwithstanding their linkages, achieving these objectives may require different and potentially conflicting approaches to the legalization and control of the casino industry. For example, the goals of maximizing tax revenues or total employment would favor a development strategy encouraging the establishment of casinos throughout the state. The economic revitalization objective, on the other hand, requires that geographic restrictions be imposed on casino development to ensure that the employment, tax and capital investment benefits are concentrated in a targeted community. Moreover, the economic revitalization objective may require the clustering of several casinos within a designated area in order to produce the critical mass necessary for substantial economic redevelopment. This approach may, in turn, conflict with the aim of fostering a diversified economic base.

In light of these and other potential conflicts, the optimal approach to legalizing casino gambling clearly depends upon the policy objectives which are to be achieved. Similarly, because the casino industry will develop within parameters established by law and regulation, it is essential that the relative weight attached to each of the goals discussed above - jobs, taxes and economic revitalization - be determined prior to legalization. The enacting legislation can then be tailored to maximize the agreed upon goals, while minimizing adverse impacts.

Six bills filed during the 1982 legislative session provided for the legalization of casino gambling within the towns of Adams, situated in the northwest

corner of the state near the New York and Vermont borders, and Hull, located approximately 13 miles south of Boston. The enthusiastic support for casino gambling expressed by many residents of each town led to the introduction of the proposals and has focused attention on these communities as potential casino sites. However, although popular support is an essential requisite for introducing a casino in any community, it cannot be the sole criterion for selecting a particular location, approving a specific proposal or deciding the merits of legalization per se.

Indeed, just as bad cases make bad law, deciding the merits of legalizing casino gambling solely on the basis of the current proposals may make bad policy. From a statewide perspective, neither Adams nor Hull are necessarily suitable or, more importantly, optimal sites for a casino. Furthermore, each town should be independently evaluated as a potential casino site, not linked as in the current proposals. Finally, none of the 1982 legalization measures before the General Court could preclude casinos from spreading to other locations. These proposals, therefore, raise two related, yet separable, questions. First, should the citizens of Adams and Hull be authorized to approve by local referendum the operation of a single casino-hotel within their respective jurisdictions? Second, should the Legislature maintain, amend or repeal the present statutory prohibition of casino gambling within the Commonwealth? For the reasons noted above, the Adams and Hull proposals are just one facet of this second, larger issue.

This chapter reviews the experience of Atlantic City, New Jersey with legalized casino gambling. It is not intended to be an exhaustive analysis; rather, it seeks to identify those developments from which reasonable inferences can be drawn regarding the probable economic impact of introducing legalized casino gambling within the Commonwealth. Nor is it intended to be a comparison between Atlantic City and Hull or Adams or any other Massachusetts community. No city or town in Massachusetts bears more than a superficial resemblance to pre-casino Atlantic City, as the following discussion should make abundantly clear.

Introduction

In 1976, the country elected a new president, and New Jersey elected to legalize casino gambling. The presidential campaign focused on a supposed crisis in leadership; the New Jersey campaign focused on the very real crisis in Atlantic City. In the words of the New Jersey Casino Control Act, "Legalized gambling was approved by the citizens of New Jersey as a unique tool of urban redevelopment for Atlantic City." The final product of this redevelopment was to be the restoration of Atlantic City as the "Playground of the World" and the "major hospitality center of the eastern United States." This ambitious objective would be achieved through: (1) the redevelopment of existing blighted areas, (2) the refurbishing and expansion of existing hotel, convention, tourist and entertainment facilities, (3) the replacement of lost hospitality oriented facilities, (4) the judicious use of open space, and (5) the attraction of new capital to New Jersey in general and Atlantic City in particular. It is clear from a careful reading of the Act's declaration of policy and legislative findings that achieving these objectives was not to be the sole responsibility of the casino industry. Rather, the industry was expected to "facilitate," "foster" and "encourage" an environment within which these goals could be achieved through a cooperative effort of the public and private sectors.¹

Now in its fifth year, Atlantic City's experiment with casino gambling has yielded some impressive dividends.² In many respects, the casino industry's contribution to resuscitating what was by all accounts a comatose resort city has exceeded even the most optimistic expectations. An estimated 19 million visitors poured into Atlantic City in 1981, making it the most popular tourist destination in the country.

¹ NJSA, s. 5:12.

² Although the statewide referendum amending the New Jersey Constitution to authorize casino gambling was approved in November of 1976, the first casino-hotel did not open until May of 1978.

Gambling-induced tourism has been responsible for creating thousands of new jobs, generating tens of millions of dollars in new tax revenues and stimulating hundreds of millions of dollars in new capital investment. The majority of New Jersey residents approve of the overall impact of the industry, with 58% of those polled believing that casino gambling has been good for the state.¹

But there have also been substantial problems, and many observers believe that the casino industry has failed to deliver on the promise of a better life for the people of Atlantic City. According to this view, a mere enumeration of the impressive strides which have been made in creating jobs, raising tax revenues and rebuilding the city's hotel and entertainment industry evades the much more important issue of who has actually benefited from these achievements. They argue that the improvements in the statistical measures of economic well-being cited by the industry's supporters (i.e., the number of people employed, the number of families on welfare, etc.) in reality reflect the higher standards of newcomers to the area, while the situation of the original residents has not improved or has actually worsened. According to the most ardent exponents of this view, the net impact of introducing casino gambling has been to transform Atlantic City from a seaside slum into a seaside slum with casinos. Such is the view of Mrs. Cora Boggs, Chairwoman of the Atlantic City Congress of Community Organizations, who recently stated, "On a scale of one to ten what the casinos have done for the people of Atlantic City is minus one. Things have gotten worse. People from outside have come in and gotten the jobs."²

¹ "Atlantic City Yet to Reap Share of Casino Windfall," The New York Times, August 29, 1982, p. 50.

² Michael Pollock, "A Tale of Two Cities," New Jersey Reporter, April 1982, p. 4.

Economic growth, however, is a dynamic process from which some individuals and groups reap substantial benefits while others - equally deserving - suffer a net loss. Consequently, the definition of economic growth and the methods of its computation became the battleground for competing interests. It is not surprising, therefore, that the Atlantic City experiment with casino gambling is alternately described as a boom or a bust, when the truth, in fact, lies somewhere in between. Unfortunately, it is still too early to determine whether this bold and controversial departure from conventional economic redevelopment strategies will ultimately be judged a success or a failure. Indeed, it is unlikely that a consensus will ever be reached on this point given the lack of agreement on: (1) the goals to be achieved, (2) the time span within which these objectives might be attained or (3) the most equitable distribution of the costs and benefits produced in the pursuit of these goals. Moreover, because much of the information required to evaluate the Atlantic City experience is either inadequately reported or not reported at all, it is impossible to make more than a partial assessment of the results to date. Subject to these constraints, the following text reviews the impact casino gambling has had on Atlantic City and its residents. The lessons learned from this review are applied to the proposals under consideration in Massachusetts in Chapter IV of this report.

A Seaside Slum

The desperate condition of Atlantic City at the time of the gambling referendum has been well documented. By any measure of physical, social or economic health, the city was suffering from an acute case of urban decay. The same problems (i.e., high rates of crime, poverty and other social ills; physical blight; middle-class flight; a weakening tax base and higher tax rates) which beset many of the older cities of the Northeast during the 1960's had reached crisis proportions in Atlantic City. Based on an urban distress index developed by the Brookings Institute

Atlantic City ranked fourth among the 100 most distressed urban areas in the country, behind St. Louis, East St. Louis and Mayaguez, Puerto Rico.¹

The reasons for the city's decline were many, but principal among them was its fading appeal to the throngs of tourists who had once flocked to its beaches, packed its grand hotels and bustled down its famous boardwalk. During the post-World War II period, the construction of the interstate highway system and the rapid growth of the national and international air transportation system enabled people to travel to more distant vacation spots. Increases in disposable income and leisure time provided the means to do so. As a recent social history of Atlantic City concluded -

"Ultimately, changing modes of transportation practically destroyed the resort's ability to attract patronage across class lines, threatened the physical appearance of the city, and sapped the illusion-creating potential the town once so vigorously exploited. Atlantic City did not 'fall' - it was abandoned. It persevered in formulas which had been highly successful, but though a large part of its patronage continued to respond eagerly to what it offered, an important minority left it behind, to return no more."²

Although as many as two million persons still visited Atlantic City each year during the 1970's, these visitors were neither numerous nor, more importantly, affluent enough to sustain the extensive hospitality industry which had historically served as the mainstay of the local economy. In the jargon of Atlantic City, they were "Shoebies": Persons who arrived in the morning carrying a shoebox packed with a lunch under their arm (hence the name); sat on the beach all day; and returned home that evening, leaving behind more litter on the beach than cash in the tills of the local merchants.³ Perhaps more damaging to the local economy was the fact that the

¹ Charles Tantillo, "A Unique Tool of Urban Redevelopment: Casino Gambling in Atlantic City," paper presented at a conference on Atlantic City Tourism and Social Change, Stockton State College, Pomona, New Jersey, May 3, 1982.

² Charles Funnell, By The Beautiful Sea: The Rise and High Times of That Great American Resort, Atlantic City, Alfred A. Knopf, Pub., New York, N.Y., 1975, p. 151. Quoted in Charles Stansfield, "Atlantic City and The Resort Cycle Background to the Legislation of Gambling," Annals of Tourism Research, April/June 1978, p. 239.

³ Michael Pollock, "The Last Resort," New Jersey Reporter, March 1982, p. 25.

large national conventions were bypassing the city with increasing frequency. Between 1970 and 1975, the number of convention delegates visiting the city declined from an estimated 477,000 to an estimated 360,000.¹ Conventions are aggressively courted by resort areas because the average conventioneer tends to stay for a longer period of time and spend more money at local shops and business than does the typical tourist. Moreover, because the peak convention days are Monday through Friday, and the peak months are September through June, convention visits help to even out the feast and famine syndrome commonly associated with a resort-oriented economy.

Ironically, an attempt to revive the city's resort industry by playing host to the 1964 Democratic National Convention had just the opposite effect. What was to have been the city's "pinnacle of prestige" turned out to be a humiliating disgrace. Television viewers throughout the nation watched as "the so-called Queen of Resorts was revealed as a decaying city, infested with rip-off artists, cheap criminals and cheaper prostitutes who temporarily hiked their prices for the Democrats." Theodore H. White, in his book The Making of the President, 1964, refers to Atlantic City as the "original Bay of Pigs" and writes, "Never have a town and a chamber of commerce made a greater effort only to end by exposing themselves to ridicule."²

This waning of the tourist and convention trade caused a severe contraction of the city's hotel industry. Between 1965 and 1975, not a single new hotel was constructed, while the existing stock of hotel accommodations decreased by 4,600 rooms, or 37%. Many of the remaining rooms were far below industry standards. Despite the decline in the number of rooms, average annual occupancy rates for Atlantic City hotels in 1977 were in the 45-50% range - far below an industry-wide norm of

¹ Gladstone Associates, Findings and Conclusions: Current Economic Conditions and Market Performance, Atlantic City, New Jersey, July 26, 1977, p. 6.

² Pollock, "The Last Resort," supra, p. 20.

desired occupancy rates of 70% plus.¹ Fewer rooms meant fewer jobs, and between 1969 and 1977, average monthly employment in the Atlantic County lodging industry declined by over 40%.²

The decline in tourist and convention visitation had debilitating ripple effects throughout the local economy. A partial survey conducted in 1977 revealed that the number of general merchandise, apparel, and furniture stores in downtown Atlantic City had fallen by approximately 50% since last surveyed by the U. S. Census Bureau in 1972.³

The countless shops and stalls which lined the eight-mile boardwalk had likewise fallen on hard times. And as service and quality became subordinate to high mark-ups and quick turnover, they degenerated into a motley collection of clip-joints, pandering to "the most debased tastes with the sleaziest of merchandise."⁴ At some point, the symptoms of the city's decline became the cause of still further decline; the closing of existing business coupled with the lack of new investment caused further decreases in visitation levels which, in turn, led to additional business failures and discouraged new investment.

Even an infusion of federal funds failed to break this cycle of deterioration. In 1968, Atlantic City was selected by the Department of Housing and Urban Development to participate in that agency's Model Cities Program. Slightly more than two years later, "having developed neither the commitment nor the ability to mount an effective program," the city's participation in the program was terminated by HUD.⁵

¹ Gladstone Associates, supra.

² Thomas P. Hamer, "The Casino Industry in Atlantic City: What Has It Done for the Local Economy?" Business Review, Federal Reserve Bank of Philadelphia, January/February 1982, p. 4.

³ Gladstone Associates, supra, p. 5.

⁴ Pollock, "The Last Resort," supra, p. 20.

⁵ Tantillo, supra.

The decline of the Atlantic City tourism industry was accompanied by a general weakening of the Atlantic County economy. During the 1973-75 recession, employment in manufacturing overall declined greatly and although by 1977 durable jobs had recovered to their former levels, jobs in nondurables were off by 28%. Employment in construction was also severely affected by the recession; despite some recovery, it declined by 12% between 1968 and 1977. Additional declines were experienced in transportation and public utilities employment. These losses were hardly offset by gains in ~~trade~~, service, finance and government employment. Furthermore, like most tourism-dependent economies, the Atlantic City labor market was subject to severe seasonal fluctuations in employment. Over the 10 years before the casinos, employment in the winter (first quarter) averaged only 82% of employment in the following summer (third quarter) an average seasonal change of 12,500 jobs each year. This pattern was even more severe in the lodging industry and was worsening over time. The ratio of lodging industry employment in the winter to that of the summer decreased from 65% in 1968 to 47% in 1977, averaging 55% over the decade. Unemployment compensation claims fluctuated even more than total employment and on average winter claims outran summer claims by two to one. By 1977, some 4,000 ~~more~~ people were unemployed in the winter than in the summer.¹ The dramatic seasonal swings in employment was a cause of concern to state officials because of the strain it placed on New Jersey's unemployment trust fund.

Paralleling the economic deterioration described above was a pronounced decline in the city's physical condition. The city was losing its housing stock at an alarming rate; between 1960 and 1978, the total number of housing units declined from 24,793 to 19,500. Housing Authority studies reported that 67% of the remaining units were over 40 years old, that 37% were substandard and that 23% of all housing units were not only substandard but also unfit for rehabilitation. Reflecting the

¹ Hamer, supra, pp. 5-6.

large number of low income inhabitants, less than one-third of the residential housing stock was owner-occupied and 36% of all tenants paid more than 35% of their gross income in rent. Moreover, with more than 20% of all occupied units receiving public assistance, the city had the highest percentage of subsidized units to total units of any city in New Jersey. In fact, subsidized housing dominated the limited additions to the housing stock which occurred during the 1970's, accounting for 65% of the 1,631 units constructed between 1970 and 1977.¹ The fiscal consequence of this physical blight was a decline in the city's net taxable valuation from \$334 million in 1972 to \$319 million in 1975, despite a substantial rate of inflation over the same period.²

Another manifestation of the economic and social malaise which gripped the city was the substantial exodus of its resident population. Between 1960 and 1975, the population of Atlantic City decreased from 60,000 to less than 43,000 persons, a decline of more than 28%. A large portion of this population outflow was comprised of higher income, largely white, upwardly mobile, young, educated households which could afford to seek better homes and greater opportunity elsewhere. At the same time, the number of elderly, poor and minority residents was increasing in both absolute and percentage terms. The percentage of blacks, for example, soared from 18 to 43% between 1960 and 1970. The city's 1970 mean income was \$7,719 compared to the county mean of \$10,319 and while only 6.1% of all New Jersey families had incomes below the official poverty line, almost 17% of Atlantic City families were so categorized. The percentage of family heads sixty-five years old and over, in which both the city and county ranked far above state and national averages, indicated that there were virtual old age ghettos within the city, with census tracts ranging from negligible through 80% sixty-five and over.³

¹ New Jersey General Assembly Legislative Oversight Committee, Housing and Casinos in Atlantic City, April 26, 1979, pp. 1-5.

² Testimony of William J. Downey, Executive Director, Atlantic City Casino Hotel Association, before the New Jersey Assembly Independent Authorities/^{and} Commissions Committee, March 17, 1982, p. 2.

³ Stansfield, supra, p. 240.

As the number of families and individuals requiring publicly funded health, educational and welfare programs increased, the city's ability to raise additional revenues through increases in the property tax was constrained by the willingness and ability of higher income households and business firms to relocate in the suburbs. The resulting mismatch between the city's expenditure needs and its revenue raising ability placed a severe strain on the city government's capacity to respond to the needs of poor and minority residents. What followed was a steady decline in the quality of public services at the same time that tax rates were increasing.

Atlantic City was clearly in trouble. The once glorious Queen of the Jersey shoreline had deteriorated into an obsolete, moribund resort. Atlantic City could neither delight nor distract; it offered little but "shabbiness, shoddiness and fear."¹

The Entry of Casino Gambling

Against this backdrop the pro-gambling forces mounted a slick, well-financed campaign to win voter approval of a statewide referendum amending the state constitution to authorize casino gambling in Atlantic City. Legalized gambling was advanced as the only available means of rebuilding Atlantic City into a premier tourist resort and convention center. The casino industry would, they promised, pump new life into what had become an urban wasteland, whose only comfort was that things could not get much worse and whose only recent claims were the Miss America Pageant and the highest crime rate among cities of its size.² Employment would expand and an estimated \$30 million in tax revenues would flow to the state each year for the support of programs to assist the state's elderly and handicapped citizens. The campaign was spearheaded by a consortium of local businessmen, union officials

¹ Pollock, "The Last Resort," supra, p. 21.

² Sylvia Lewis, "Boomtown on the Atlantic," Planning, December 1979, p. 10.

and influential state and local politicians. Organized as the Committee to Rebuild Atlantic City (CRAC) and backed by a campaign chest of more than \$1 million, the proponents imported a nationally-known political consultant from San Francisco, opened five offices across the state to get the vote out on election day and saturated the media with advertisements extolling the virtues of casino gambling as a generator of urban redevelopment, jobs, tax revenues and capital investment.

The measure was opposed by a coalition of religious leaders, who condemned casino gambling on religious and secular moral grounds, and law enforcement officials, who raised the specter of crime and political corruption. Casino advocates' promise that the industry would be kept clean by the enactment of the strictest gaming control statute in the world was labeled as naive; casino gambling would attract families, the opponents warned, but they would not be the type of "families" the opponents were talking about. Echoing this view, State Attorney General William Hyland warned, "I'm concerned whether we can keep organized crime out of the action, in spite of the Legislature's best intentions. When you have such tremendous amounts of money changing hands, organized crime always tries to get into the picture. We have enough trouble dealing with it elsewhere."¹

In support of their contention that casino gambling and organized crime are inextricably linked, the opponents attempted to make an issue out of the involvement of Resorts International in the referendum campaign. Resorts, like many casino operators, had a controversial past. In 1965, the company, then known as Mary Carter Paint Co., retained as its attorney the Bahamas Minister of Finance and Tourism, who helped the company get a Bahamian casino license. Two years later, the Minister was forced out of office following the disclosure of improprieties related to his dealings with other gambling interests. In 1967, Resorts hired Edward

¹ Victor F. Zonana, "Atlantic City's Economic Plight Boosts Chance for Approval of Legalized Casino Gambling," The Wall Street Journal, October 29, 1976, p. 38.

Cellini, the brother of Dino Cellini (an associate of notorious mobster Meyer Lansky) to manage its Paradise Island casino. Two years later, the company removed him from that post because of the resulting adverse publicity.

Resorts was also criticized for retaining as attorneys the uncle of Assemblyman Steven P. Perskie and the brother of State Senator Joseph McGahn, the two legislators who were primarily responsible for passage of the gambling amendment in the Legislature. The opponents also complained about the lavish cocktail parties held by Resorts for New Jersey delegates to the Republican and Democratic National Conventions. Resorts, supported by the Legislature's Ethics Committee, denied any wrongdoing in the campaign and expressed confidence that it could keep organized crime out of any casinos it might operate in Atlantic City. Lending support to this claim was the fact that Resorts had hired several former Justice Department officials, and statements by some federal and state law enforcement officials that the extremely high profits at Resorts' Bahamas gambling operations were evidence that skimming by organized crime was not occurring there.¹

Concerned that opposition to casino gambling based on moral grounds or fear of organized crime would be given short shrift by an electorate preoccupied with tax relief and new jobs, the opponents also attempted to rebut the economic arguments in favor of the referendum. The casino industry's potential as a catalyst for revitalizing the city's resort industry was denigrated as a shallow alternative to the need for "real" economic development. The promise of jobs for the unemployed was branded a cruel hoax from which the casino hotel operators would make millions, while the people of Atlantic City were left to make the beds. Furthermore, the opponents claimed, any benefits which did trickle down to local residents would be purchased at the expense of those least able to afford it, the poor, the elderly and persons addicted to gambling.

¹ Ibid., p. 38.

Apparently unconvinced or unconcerned by these warnings, the voters approved the constitutional amendment by a margin of more than 200,000 votes. Residents of Atlantic City - surrounded by the physical, social and economic deterioration the amendment intended to cure - turned out more than four to one in support of the measure. As one writer has described it, "A city of losers reached for a winner."¹

The 1976 campaign was the second attempt to win voter approval of casino gambling in New Jersey. Two years earlier, the voters had overwhelmingly rejected a proposal calling for the establishment of state-run casinos located anywhere in the state, pending local approval, with the net proceeds accruing to the state's General Fund. Three differences between the two proposals enabled the 1976 referendum to succeed where the earlier one had failed.

The most important difference was the express limitation of casinos to Atlantic City which was included in the 1976 constitutional amendment. In terms of winning public support for legalization, this geographical restriction served two purposes. First, it ensured that casinos would not proliferate across the state, a development which many voters had feared would follow from the ratification of the 1974 proposal. Voters concerned about such things could take comfort in the fact that the potential evils of casino gambling would be contained within the 12 square miles of Atlantic City.² The sponsors of the 1976 referendum thus completely defused what had been the opponents' most powerful argument against the first proposal. Stanford Weiner, the political consultant who ran the successful 1976 campaign, observed about the 1974 measure, "I wouldn't have gone near it...the voters weren't going to buy it the way it was written. They didn't go for the idea of casinos in their backyards."³ The limitation also aided the referendum's passage by enabling

¹ Michael Hawkins, "The Atlantic City Experience: Casino Gambling As An Economic Recovery Program," paper presented at the Fifth National Conference on Gambling and Risk Taking, Lake Tahoe, Nevada, October 23, 1981, p. 1.

² Hamer, *supra*, p. 6.

³ John D. Dombrink, Outlaw Businessmen: Organized Crime and the Legalization of Casino Gambling, Doctoral Dissertation, University of California Graduate Division, Berkeley, 1981, p. 156.

the pro-casino lobby to emphasize the urban revitalization potential of the casino industry, rather than its contribution to general state revenues. Casino gambling would not only save Atlantic City and enable its people to bootstrap themselves back to prosperity, but would do so at no cost to the rest of the state. In fact, the proponents stressed, the entire state would benefit from there-emergence of Atlantic City as the Queen of Resorts.

The second important difference between the two proposals was the shift from publicly to privately owned and operated casinos. One obvious advantage of this change was that it gave potential casino operators and other business interests which expected to profit from the legalization of casino gambling a vested interest in the success of the referendum. Resorts International, for example, having acquired large property holdings in the city in anticipation of voter approval, contributed \$200,000 to the pro-casino campaign. The financial support provided by Resorts and others enabled the proponents to vastly outspend their under-financed opponents. Some observers believe this financial mismatch was a decisive factor in the November election. It is worth noting, however, that the opponents, likewise outspent in 1974, had nevertheless succeeded in defeating that proposal by a margin of three to one.

The change to privately owned and operated casinos also overcame moral and practical objections to state ownership. The principal moral objection to state-operated casinos is that the government would become an aggressive promoter of gambling by its citizens. Many voters may have felt such a policy would conflict with other policies in the public interest. Such a position has been forcefully expressed by Irving Kristol who writes:

In short, when the government gets into the gambling business, it necessarily assumes the responsibility for seeing that this business grows and prospers. In effect, it proclaims that gambling is not a necessary evil but an inherently good thing. And it does this while telling its citizens that, if they are to be good Americans, they should

work hard, save their money, shun all get-rich-quick schemes. Is this not ridiculous? Does it really make sense for the government to insist that no one has a right to work for a penny less than the minimum wage and for the government then to encourage us all to blow our week's wages at the betting cage? Does it really make sense for the government to enact a mountain of legislation - from SEC registration to the labeling of consumer products - which protects people from unwise expenditures while urging them to make the unwise expenditure of all, i.e., a gambling bet.¹

Practical objections to state-operated casino center on the government's ability to efficiently operate casinos. Casino gambling is a complex, risky business which requires a high degree of promotional, operational and administrative expertise. Skeptical about the presence of such expertise in the public sector, New Jersey voters were unwilling to expose the state treasury to the risk of incurring large capital losses if a state-run casino should fail. Several studies have concluded that government-operated casinos are likely to be less efficient in raising revenues than private casinos and that, in fact, the government's revenue from a tax on the profits of private casinos would probably exceed total profits from a state-owned operation.² The electorate may also have been wary of creating a new bureaucracy that could be used for patronage purposes and which, once established, would seek to perpetuate itself. They may have also feared that "in addition to assuring the continuation of its own jobs and responsibilities, the bureaucracy will look for expansion of its jurisdiction - thus placing excessive and misplaced reliance on gambling activities for revenue production instead of developing more effective and more equitable alternative sources of revenue."³

As noted earlier, the 1974 proposal provided that the net proceeds from the state-run casinos would be paid into the state General Fund. In contrast, the

¹ Irving Kristol, "Vice and Virtue in Las Vegas," The Wall Street Journal, September 9, 1973.

² Horace J. De Podwin Associates, Inc., Feasibility of Casino Gaming for New Jersey, April 1971, p. 7.

³ The Twentieth Century Fund, Easy Money, 1974, p. 8.

1976 referendum earmarked casino tax revenues solely for the purpose of providing reductions in property taxes, rentals, telephone, gas, electric and municipal utilities charges of eligible senior citizens and disabled residents of the state. Linking gambling tax revenues to some particularly meritorious or necessary form of expenditure is a frequently used tactic for winning public support for legalization. New Hampshire and New York, the first two states to adopt state operated lotteries tied the proceeds from their lotteries to financing the public schools. Similarly, the Massachusetts State Lottery was approved as a means of providing property tax relief to the cities and towns. Persons opposed to the use of gambling as a revenue raising device contend that such earmarking is a politically cynical tactic for encouraging public support by making the revenues to be raised appear indispensable. In New Jersey, the casino advocates succeeded in equating a vote for casino gambling with a vote for the elderly. This not only broadened support for the measure but also effectively countered the opposition argument that casino tax revenues would represent an insignificant addition to total state revenues.

In summary, persons who voted in favor of the casino gambling referendum did so for one or some combination of four reasons. For many individuals, the redevelopment of Atlantic City was the primary motivation. For others, the promise of millions of dollars in tax revenues to support programs to aid the elderly and the handicapped was the principal incentive. For still others, the opportunity to add thousands of new jobs in an economically-depressed area was the decisive factor. Finally, a substantial portion of the electorate supported the constitutional amendment because they enjoyed or thought they would enjoy gambling at a casino. The importance of this motivation should not be underestimated. Approximately 40% of the 19 million visitors to Atlantic City in 1981 were residents of New Jersey. Based on the assumption that the New Jersey resident who gambled in Atlantic City

did so, on average, six times that year, it would appear that more than one million people who were eligible to vote on the casino referendum are enthusiastic casino gamblers.

The foregoing treatment of the New Jersey casino referendum has highlighted the main issues and motivations of the principals involved in that contest. A comparative analysis of the strategy and tactics employed by adversaries in casino referendum campaigns in New Jersey and Florida appears in a latter chapter of this report.

Industry Development

Prior to the introduction of casino gambling in Atlantic City, Americans who wished to gamble legally at a casino had to travel to Nevada, Puerto Rico or one of the more than two dozen foreign jurisdictions where casino gambling is available. The size of the American gambling market was thereby restricted to those persons who lived close to or could afford the time and expense of travelling to those areas. The advent of casino gambling in Atlantic City eliminated these constraints for much of the population of the northeastern United States. It also provided the casino industry with access to a regional market vastly superior to that available in Nevada. As noted by one analyst, "Las Vegas is in the middle of a desert...Atlantic City is in the middle of a lot of people."¹ The population within 100 miles of Atlantic City is three times that surrounding Las Vegas, while the population within 300 miles is almost 40 times greater. Despite its seeming potential as a gambling resort, most developers were initially reluctant to enter the Atlantic City market.

Several months after the passage of the casino referendum, only two companies - Resorts International and Playboy Enterprises - had made formal announcements of their intent to operate casino-hotels in the city. Other developers

¹ Daniel R. Lee, Investing in Gaming, Drexel Burnham Lambert, Inc., March 1981, p. 19.

delayed committing themselves because of uncertainty about the final format of the gaming regulations, a shortage of venture capital and mortgage money at affordable rates, and uncertainty about the probability of success.

On June 7, 1977, the New Jersey Casino Control Act was signed into law by Governor Brendan Byrne, who had been an early and ardent supporter of legalized casino gambling.¹ The regulatory system established by the Act was much more restrictive than Nevada's, intruding into matters that Nevada authorities consider to be management prerogatives.²

To ensure that the existing nature and tone of the hospitality industry in New Jersey and in Atlantic City were preserved and to prevent legalized gambling from becoming the industry unto itself that it has become in other jurisdictions, the General Assembly restricted the issuance of casino licenses to new or refurbished hotels having (1) 500 or more first-class hotel rooms, (2) 25,000 square feet of convention space and (3) 40,000 square feet of dining and entertainment facilities. Incentives were provided to increase the minimum casino size by adding more hotel rooms and public space. Linking casino licenses to the operation of a large-scale hotel greatly increased the casino industry's contribution to local employment by necessitating the hiring of large staffs to operate the hotel and related facilities. Furthermore, it reenforced the goal of attracting tourists and conventioners to the city by providing a supply of hotel rooms sufficient to accommodate large numbers of overnight visitors.

To prevent casino development in Atlantic City from resembling the garish strip format found in Las Vegas, the Act authorized the Casino Control Commission to impose architectural and design standards. Although the statute did not restrict casinos to any specific area of the city, such limitations were subsequently imposed

¹ NJSA, s. 5:12.

² For a detailed discussion of the New Jersey regulatory system, see Chapter VI.

by the Atlantic City Master Plan. The plan created three casino zones: one along the boardwalk where eight of the nine casinos are presently located; another in the marina area in the northeastern section of the city where one casino is now in operation; and a much smaller zone at the city's center at the terminus of the Atlantic City Expressway where one casino is under construction. Casinos may operate 20 hours each day on weekends and federal holidays (they must close between 6:00 A.M. and 10:00 A.M.) and 18 hours a day on all other days, with patrons being barred between the hours of 4:00 A.M. and 10:00 A.M.

Anxious to usher in Atlantic City's new era of prosperity, state and local officials began to actively recruit potential casino operators while pressing for regulatory changes to ensure that the development of the gaming industry occurred as speedily as possible. The most controversial of these changes was the amending of the Casino Control Act to provide for temporary licensure of casino operators. Opponents of the change argued that it shifted the burden of proving suitability from the applicant, where it belonged, to the state. Economic considerations and fear of competition from other states (such as Florida where a referendum to authorize casino gambling in Miami was on the November ballot) prevailed however, and the amendment became law in March 1978. Resorts International immediately applied for and received a temporary operator's license.

Several weeks later, on May 26, 1978, Resorts opened its doors to the eager crowds of novice gamblers, many of whom had driven more than 100 miles and stood in line for over three hours to test their skills at the tables and pump their coins into the slot machines. During its first 12 months of operation, a period during which it enjoyed a monopoly on casino gambling in Atlantic City, the Resorts casino had an average daily win of more than \$600,000.¹ This was more than three

¹ The win figure is the total amount bet minus the payment to winners. It is possible for a casino to record a very large win figure and still experience a net loss after deducting expenses. Although this was not the case at Resorts, it has occurred at other casinos.

times the average daily win of the largest Las Vegas casino and more than five times the amount initially expected by Resorts' management. Literally overnight, Resorts became the most profitable casino in the world and Atlantic City started to boom.

The phenomenal profits realized by Resorts when it was the only game in town erased all doubts concerning the potential of Atlantic City as a gambling resort. Undaunted by interest rates approaching 20%, skyrocketing land prices and a regulatory system, the true costs of which were as yet unknown, other companies rushed to enter the market. Construction crews worked around the clock to get the casinos opened. By February of 1979, 36 companies had expressed interest in operating a casino-hotel in the city. As the number of casinos increased, profit margins declined from the record levels set by Resorts International.

The issue of casino industry profits, or lack thereof, was recently addressed by Mr. Steven Norton, Executive Vice-President of Resorts International, in the following terms:

The perception that the casino industry in Atlantic City is still ultraprofitable prevails even though the performance of the industry has steadily declined since Resorts International opened the first casino four years ago...A great deal of the perceptions about the health of the industry came directly from the monthly reports on casino gambling win, which is revenue, not profit...However, revenues are not the primary concern of an investor, profits are. And, this is the side of the story that the general public does not hear. The after-tax profits of Resorts International, Inc. for seven months in 1978 were \$41 million, or \$5.9 million per month. In 1979, Resorts and (Caesar's) Boardwalk Regency had after-tax profits of \$81 million or \$4.3 million a month. In 1980, however, the profits for the industry as a whole dropped \$50 million to \$31 million as four new casinos went into competition with Resorts and Caesar's. The after-tax profits per operating month dropped from over \$4 million in 1979 to \$700,000 per month and declined even further to \$270,000 per month in 1981, for a total of \$23 million for the entire casino industry.

Or, to put it another way, the nine casinos operating in Atlantic City during 1981 as an industry earned less than one-third of Resorts International's earnings in 1979, which was \$75 million. Twenty-three million dollars was not a satisfactory after-tax profit on total revenues of \$1.4 billion, or (on the) total investment which also is approximately \$1.4 billion. This represents after-tax profits of only 1.7% of our revenues and compares very unfavorably to other major New Jersey corporations like Merck Pharmaceutical which has not earned less than 15% after-tax profits) in any of the past 20 years...(It is also) less than a quarter of the average strip casino in Las Vegas.¹

The decline in industry profitability caused some investment analysts to speculate that Atlantic City could not, as was hoped, develop into a year-round resort. To others it suggested that the industry may have already reached the point of market saturation with only nine casinos. Financial analysts expressed concern that some companies may have rushed too quickly into the market, losing control of their expenses and accepting unfavorable, and perhaps unmanageable, financing.² Several developers abandoned their projects in mid-construction, citing cost overruns, financing constraints, uncertain market conditions and concern that an overly strict regulatory system had increased costs to the point where it was impossible to make an acceptable return on investment. "Cutthroat" competition surfaced between the casinos as individual casinos mounted aggressive advertising and marketing campaigns to increase their market share at the others' expense. One widely used strategy was to subsidize bus companies in exchange for their agreeing to deliver their passengers to a particular casino. Upon arrival, the passengers would receive rolls of quarters, discount coupons, vouchers for meals and other "freebies." These so-called "bus wars" reached the point where persons could clear \$64 a day by riding

and
¹ Testimony of Steven Norton before the New Jersey Assembly Independent Authorities/Commissions Committee, March 17, 1982, pp. 29-30.

² Lee, supra, p. 1.

the buses twice. One casino offered to pay bus passengers discharged at a competitor's casino on the condition that they would patronize its establishment within a specific time period following their arrival in Atlantic City.¹

The Casino Control Commission reacted to the faltering performance of the industry by declaring an economic emergency and eliminating the surrender rule in blackjack as an "imminent peril to public welfare, health or safety." The surrender rule permitted players to surrender their hand and retain half their bet if they decided that their first two cards were not good enough to beat the dealer. The industry had complained that this rule was costing it tens of millions of dollars annually. Encouraged by their success in having the surrender rule repealed, casino executives increased their efforts to convince the Casino Control Commission and the General Assembly that the regulatory system was unnecessarily retarding industry growth. Their claims that the regulatory system cost too much were supported by experts in the financial industry who noted that it cost 40% more to operate a casino-hotel in Atlantic City than it did to run a comparable facility in Nevada.

Governor Byrne, for one, was receptive to these complaints and stated that "in some areas we may be imposing regulatory burdens on the casino employment and operation which serve no purpose."² The most significant regulatory concessions won by the industry include (1) the elimination of the requirement that casino operators maintain 30% of their tables with \$2 bet minimums, (2) the option of serving complimentary cocktails to gamblers at the table games and (3) the right to schedule live entertainment at their own discretion. Still high on casino executives' list of regulations which depress industry profits while serving little purpose are the restrictions placed on the use of inducements to attract out-of-town high rollers

¹ Hawkins, supra, p. 46.

² "Atlantic City Casinos Still Not Paying Off," The Providence Sunday Journal, June 28, 1981, p. B-10.

on junkets. Casinos in Nevada make extensive use of free room and board, free transportation and other "comps" to attract big budget gamblers. The hotel facilities at many Nevada casinos have historically been operated as loss leaders; their principal function being to attract gamblers to a particular casino and thus provide a captive customer base.¹ Casino operators in Atlantic City maintain that restrictions imposed by the Casino Control Act have made it extremely difficult to cultivate the trade of the big time gamblers, many of whom have come to expect the lavish treatment they receive in Las Vegas. Legislation which would ease these restrictions is currently before the New Jersey Legislature and is expected to be approved.

It is often alleged that the strict gaming control statute originally enacted by the Legislature has been substantially weakened by subsequent amendments. This allegation is untrue. Although there have been several regulatory changes which increased casino profits, either by increasing the statistical advantage of the house over the player or by reducing payroll expenses, none of these changes has in any way reduced the state's ability to protect the public from unscrupulous casino operators and ensure the integrity of casino operations.

Atlantic City now has nine casino hotels, representing a total investment of approximately \$1.5 billion. This figure is equal to five times the total assessed value of all property in the city in 1976 and is equivalent to an investment of approximately \$40,000 for every man, woman and child in the city. The construction of seven new hotels and the refurbishing of two existing ones has added 4,788 rooms to the city's depleted stock of hotel accommodations and expanded the

¹ Lee, supra, p. 3.

supply of convention space by 265,240 square feet. In addition, 47 restaurants ranging from coffee shops to gourmet restaurants, 36 cocktail lounges and 7,402 theater seats have been added to the Atlantic City hospitality industry. Among other things, the casino industry has also been responsible for constructing millions of dollars worth of improvements to the city's sewerage collection system, donating hundreds of thousands of dollars to fund improvements at the city's intown airport, substantially reconstructing the city's street system within the casino-hotel construction zone and contributing hundreds of thousands of dollars to the Atlantic City Medical Center.¹ The physical characteristics of Atlantic City's nine operational casino-hotels are summarized in Table 1 below.

Under the headline, "Flush with Profits, Atlantic City Casinos Plan Growth," the New York Times recently reported that, despite the recession, Atlantic City casinos are enjoying what one executive called an "avalanche of profits." In October 1982, the casinos took in a total of \$142.1 million, an increase of 40% over the same month a year ago. The Atlantic City Casino Hotel Association has predicted \$1.4 billion in revenue for 1982, compared with last year's total of \$1.1 billion. Citing an improved regulatory climate, falling interest rates and the strong performance of the industry during the previously slow cold-weather season, several developers are preparing for a second wave of casino construction. Plans for new casinos are underway by Harrah's and the Trump Organization, the Hilton Hotel Corporation, Caesar's World, Resorts International and the Golden Nugget. Other companies are planning substantial renovations.

¹ Barbara Lampen, "Atlantic City Casinos," Public Gaming Magazine, July 1982, p. 32; Atlantic City Casino Hotel Association, Fact Sheets, various issues.

Table 1. Casino-Hotels At A Glance

	<u>Resorts</u>	<u>Caesar's</u>	<u>Bally's</u>	<u>Sands</u>	<u>Harrah's</u>	<u>Golden Nugget</u>	<u>Playboy</u>	<u>Claridge</u>	<u>Tropicana</u>	<u>Total Industry</u>
Rooms	727	509	512	504	506	504	500	505	521	4,788
Casino Size (Sq. Ft.)	60,000	49,061	60,000	38,336	44,090	40,805	54,000	30,000	50,795	427,087
Table Games:										
Total	123	107	131	89	116	95	108	68	116	953
Blackjack	84	63	90	59	80	61	76	44	76	633
Craps	20	26	22	16	18	18	14	12	18	164
Roulette	10	12	12	10	12	10	12	8	15	101
Big Six	6	2	4	2	4	4	3	2	4	31
Baccarat	3	4	3	2	2	2	3	2	3	24
Slot Machines:										
Total	1,750	1,366	1,601	1,046	1,191	1,205	1,479	854	1,519	12,011
Nickel	135	70	136	64	61	62	74	81	76	759
Quarter	1,071	921	1,135	619	654	850	1,102	623	1,120	8,095
Dollar	312	105	130	59	214	112	71	63	105	1,171
Other	232	270	200	304	262	181	232	87	218	1,986
Convention Space (Sq. Ft.)	58,000	26,300	30,000	25,500	25,000	25,440	25,000	25,000	25,000	265,240
Restaurants	7	5	8	3	5	4	4	5	6	47
Cocktail Lounges	5	3	5	3	5	3	3	4	5	36
Parking Spaces	4,000	500	500	500	2,400	896	500	505	1,100	10,901
Theater Seats	2,000	500	550	728	850	524	1,000	550	700	7,402
Opening Date	5/26/78	6/26/79	12/29/79	8/13/80	11/23/80	12/13/80	4/14/81	7/20/81	11/23/81	
Plenary License	2/26/79	10/26/80	12/29/80	4/26/82	11/19/81	10/13/81	4/13/82	7/01/82	11/17/82	9 Approved

Source: State of New Jersey Casino Control Commission

Prepared By: Atlantic City Casino Hotel Association

The Atlantic City Labor Market

Casino Employment

The casino industry's contribution to employment in the Atlantic City area was immediate and impressive. Between July 1978 and July 1979, a period during which only two casinos opened, the number of wage and salary jobs in Atlantic County increased by 8,700, a rise of 10%. In contrast, statewide employment increased by only 1% during the same period. Casino-hotel employers accounted for 4,900 of these new jobs or 56% of the increase. Other increases consisted of 3,400 construction jobs (71% casino related), 300 transportation jobs, 400 finance jobs and 200 government jobs.¹ The magnitude of these employment gains can be best appreciated by considering that in 1977 average annual employment in the entire Atlantic County hospitality industry was only 3,200.² Therefore, the opening of the first casino-hotel, Resorts International, resulted in an immediate doubling of the Atlantic County hospitality workforce. Due to the rapid development of the casino industry, the Atlantic City labor market in 1979 experienced the largest percentage increases in the nation for annual wages (16.4%) and total personal income (20.1%).³ In some cases, the increases in earnings were remarkable. For example, from the first quarter of 1978 to the same period in 1980, the annual income of a hotel chambermaid increased from \$5,900 to \$10,400.⁴

In 1980, with the opening of four additional casino-hotels, the employment boom began in earnest. As of December 1980, the six operational casinos were

¹ New Jersey Department of Community Affairs, Review of the Probable Impact of Atlantic City Casino Development, January 1980, p. 10.

² New Jersey Department of Labor and Industry, Annual Planning Information and Occupational Supply and Demand Report, May 1981, p. 2.

³ Testimony of William J. Downey, Executive Director, Atlantic City Casino Hotel before the New Jersey Assembly Independent Authorities Commissions Committee, March 17, 1982, p. 3.

⁴ Ned Burnett, "Casino Development Helps Rebuild Strong Labor Unions," The Atlantic City Press, January 1, 1981, pp. 47-49.

employing 23,645 people. More than 65% of the 1976-1980 increase of 35,800 in total nonfarm wage and salary employment in Atlantic County was attributable to casino industry jobholding.¹ Total wages paid by the six casino-hotels during 1980 were \$208,940,218. In 1977, prior to casino development, total wages paid in the entire Atlantic County hotel-motel industry were \$16,135,347.² Employment continued to expand as three more casino-hotels opened and, at present, approximately 30,000 persons have found jobs within the industry.³ In fact, the nine casino-hotels are now the nine largest employers in the county, employing almost 25% of the average 1982 county labor force.⁴ Female employees comprise 46% of the industry workforce; 28% of the workforce is nonwhite.⁵ Both of these figures are above the Casino Control Commission's affirmative action goals of 43% female and 20% minorities. Twenty-six percent of female workers and 15% of the minority employees earn more than \$25,000 per year.⁶

Employment at individual casino-hotels in Atlantic City has far exceeded initial projections. These projections were based on the Las Vegas casino-hotel industry average of 3.5 employees per room. The industry-wide ratio of employees per room in Atlantic City approaches 6.5. The Resorts International casino-hotel, the largest employer, has 700 rooms, 60,000 square feet of casino floor space and employs 4,325 persons. The Claridge, the smallest casino, has 540 rooms, 25,000 square

¹ New Jersey Department of Labor and Industry, "Atlantic City Wage Survey of Selected Occupations: Casino Versus Noncasino Wages," New Jersey Economic Indicators, July 10, 1981, p. 10.

² New Jersey Department of Labor and Industry, supra.

³ Atlantic City Casino Hotel Association, Fact Sheet (published periodically), various issues.

⁴ Ibid.

⁵ Atlantic City Casino Hotel Association, Fact Sheet, September 1982, p. 6.

⁶ Lampen, supra, p. 34.

feet of casino floor space and employs 2,416 persons. The reasons for the much larger force at Atlantic City are unclear. One answer appears to be the staffing requirements imposed on the industry by the New Jersey regulatory system. The industry has complained that these requirements have reduced management's ability to adjust its workforce in response to changes in market conditions and forced the employment of much larger staffs than necessary for efficient operations. The high rates of employee turnover and absenteeism and the shortage of experienced personnel have probably also contributed to overstaffing by the casino-hotels. Finally, the sheer volume of business at Atlantic City casinos necessitates large workforces. In 1981, with less than one-fifth the casino floor space of Las Vegas, Atlantic City's nine casinos accommodated an estimated 19 million people. Las Vegas, with its many more casinos, attracted an estimated 12 million persons that year.

Unemployment

The introduction of casino gambling was expected to sharply reduce the high levels of unemployment which had historically plagued the Atlantic City workforce. Progress towards this goal, though positive, has been disappointing. On the positive side, unemployment compensation claims have stabilized instead of continuing their earlier upward spiral. In 1981, economist Thomas P. Hamer used an econometric model to compare economic data for Atlantic City and the immediately surrounding area with what the results would have been without the casinos. In the first quarter of 1973, 6,134 residents of Atlantic County made unemployment insurance claims. By the first quarter of 1981, claims had fallen to 5,240. As noted by Hamer this may not look like much of a drop, and some observers have used these numbers as proof that legalized gambling has not done enough for the area. However, Hamer's model showed that the casinos kept unemployment insurance claims from rising to over 8,500 by the first quarter of 1981 due to the continued effects of stagnation and the recession. Thus, the original residents of Atlantic County had at least 3,300

fewer claims than they would have had without casinos. Moreover, according to Hamer, if some of the claims were made by new residents, as seems likely, then the original residents must have benefited even more than the numbers might suggest on the first reading.¹

Another positive sign is a substantial decline in the number of individuals receiving public assistance. The number of Atlantic City families receiving welfare has been cut almost in half since 1976, falling from 7,000 to less than 3,800 families in 1982. Although some of this drop in welfare rolls is attributed to tightened federal requirements and population decreases, most of it is due to the tremendous increase in employment opportunities.²

Despite the positive results described above, unemployment among Atlantic City residents has remained comparatively high. Exactly how high is not known. Unemployment statistics are calculated for labor market areas and the Atlantic City labor market area includes all of Atlantic County. Consequently, reliable estimates of the Atlantic City unemployment rate are not currently available. Between 1976 and 1981, the Atlantic County average annual unemployment rate declined from 12.2% to 8.4%. During the same period, the total number of people employed increased from 71,100 to 105,100. The relatively modest decrease in the unemployment rate, in spite of the substantial increase in the number of people employed, reflects the rapid growth of the labor force, which increased from 81,000 to 114,700 during the same period.³ The rapid expansion of the labor force also accounts for the fact that the decrease in the unemployment rate has not been accompanied by a significant decline in the actual number of people unemployed; this number having decreased by only 300 between 1976 and 1981, falling from 9,900 to 9,600.⁴ In other words, although the

¹ Hamer, supra, pp. 10-11.

² Pollock, "A Tale of Two Cities," supra, p. 4.

³ Atlantic City Casino Hotel Association, Fact Sheet, July 1982, p. 7.

⁴ Ibid.

absolute number of people unemployed has declined very little, they now represent a smaller percentage of the total labor force. The persistence of high levels of unemployment in the face of a rapidly expanding job market has been ascribed to several causes.

One obvious explanation is the method by which unemployment statistics are calculated. The civilian labor force consists of persons 16 years of age and over who are either employed or unemployed during a particular survey week. The unemployment rate is the number of unemployed during the survey week divided by the number of persons in the labor force. To be classified as unemployed, a person must, among other things, have sought employment sometime during the four weeks prior to the survey. Persons who have become discouraged and abandoned their job search are not included in the labor force and are not classified as unemployed. These individuals are often referred to as the hidden or voluntarily unemployed. The prospect of working at a casino-hotel would motivate many of these individuals to renew their efforts to find work. Similarly, persons who had previously chosen not to work (i.e., students, housewives, retirees, etc.) might enter the labor force. Such a movement of individuals into the labor force would be reflected by increased labor force participation of area residents.

This is exactly what has occurred in Atlantic County. There were 2.4 residents for each person in the labor force in 1970; this ratio dropped to 1.8 in 1980 according to New Jersey Department of Labor estimates.¹ If these new additions to the labor force failed to find jobs, they would be classified as unemployed. They have, in other words, moved from the hidden or voluntarily unemployed category into the official civilian labor force. Under such circumstances, it is possible for the

¹ Charles J. Crowley, New Jersey Department of Labor and Industry, "Hotel-Casino Employee Migration to the Atlantic City Region," New Jersey Economic Indicators, March 16, 1982, p. 10.

measured level of unemployment to increase even though the actual number of persons not working has remained the same or declined. The extent to which this has taken place in the Atlantic City area is unknown.

Many residents of Atlantic City blame the casino industry for their unemployed status. They accuse the industry of actively discriminating against local residents while importing large numbers of workers from outside the area. They complain that they are not given equal consideration when applying for jobs in the casino-hotels or at casino construction jobs, and that when hired, they are given menial jobs. A colorful exposition of this contention was recently made by Mr. William DeJesus, Executive Director of the Latin Organization of Atlantic City:

Before the casinos arrived, there were 7,000 Puerto Ricans, mostly farmworkers, in Atlantic City. They held menial jobs. What did the casinos bring for the Hispanic community? Casinos brought more toilets to clean, more dishes to wash, more beds to make and more garbage to empty. Casinos are like the circus. The circus comes to town and hires some people. What kind of jobs do the locals get? Jobs such as cleaning cages and sweeping sawdust. The casinos cheated the residents of Atlantic City. We got no jobs, we have no housing and our slums still exist.¹

The charge that the casino industry has imported large numbers of workers from outside the area while the local labor force sits idle has been repeated so often that it has acquired widespread currency. Opponents of legalizing casino gambling in other states have seized upon it as evidence that casinos will not reduce local unemployment in their own area. The evidence available to evaluate this claim is inconclusive, however.

A Task Force appointed by then Governor Brendan Byrne to investigate unemployment in Atlantic City could find no evidence to either prove or disprove the

¹ Remarks of Mr. William DeJesus, Vice President, Atlantic City Congress of Community Organizations and Executive Director, Latin Organization of Atlantic City, at a conference on Atlantic City Tourism and Social Change, Stockton State College, Pomona, New Jersey, May 3, 1982.

existence of such a practice.¹ Recognizing that the prospect of employment in the casino industry would stimulate an influx of persons from outside the area, the New Jersey Legislature attempted to shelter the state's residents from this source of competition by imposing residency requirements on applicants for casino-hotel employee licenses. Applicants for a casino or key casino employee license have to live within the state for at least six months prior to the date of the application; candidates for hotel employee licensure must meet a three-month residence requirement. The Casino Control Commission may suspend these requirements if the casino-hotel demonstrates that individuals possessing skills which are essential to the operation of the facility are unavailable in New Jersey. As of November 15, 1979, the Commission had granted waivers for 650 of the 12,964 employees of the three operational casino hotels. Almost all (593) of the waivers were granted for supervisory casino personnel positions which require previous casino experience. The remainder (52) were authorized for professional (11), technical (13) and service related staff (28). Given the lack of experienced workers in the local and regional labor market area, the Task Force did not consider the number of waivers granted to be excessive. In regard to the representation of the pre-referendum Atlantic City population in the casino-hotel workforce, the Task Force considered the sample size too small to be representative.²

¹ Task Force on Unemployment in Atlantic City, Final Report, June 1980, p. 16. The Task Force was comprised of the following members: Dr. E. Belvin Williams, Chairman, Senior Vice President, Educational Testing Service; Ms. Clara L. Allen, Director, Division of Women, Department of Community Affairs; Mr. John Bachalis, President, New Jersey Business & Industry Association; Honorable Lillian Bryant, Freeholder, Atlantic County Board of Chosen Freeholders; Mr. Arthur W. Ericson, Vice President, Prudential Insurance Company; Mr. Alfonso Gandica, System Analyst, Atlantic City Electric Company; Mr. Edward A. Jesser, Jr., Chairman of the Board, United Jersey Bank; Mr. Sam Kinsora, President, Retail Store Employees Union, Local #1262; Mr. John P. Lyle, Executive Director, Bergen County Community Action Program; Mr. Jack Schlesinger, International Ladies Garment Workers Union, Essex District Council; Mr. Enrique Perez, Executive Director, Latin Organization of Atlantic City; Dr. Harry Stark, Professor, Industrial Relations, Rutgers University; Dr. Lawrence R. Winchell, Jr., President, Atlantic Community College; Mr. Edgar Wright, International Brotherhood of Painters and Allied Trades, AFL-CIO, Local Union #1171.

² Ibid., p. 27

The Task Force did, however, recommend that the casino-hotel industry consider a priority hiring system based on residence in Atlantic City prior to November 1976. People who were Atlantic City residents prior to the passage of the casino referendum were to be given first priority. Persons moving into the city following this date would be given second priority. The Task Force made this recommendation on the basis of the "moral commitment" made to the people of Atlantic City that they would be the primary beneficiaries of casino gambling. This recommendation was never formally adopted by the industry, which has always maintained that Atlantic City residents have been given every opportunity to secure employment in the casino-hotels. One casino executive has argued that since casino gambling was authorized by a statewide referendum, residents of other parts of the state have the same right to employment in the industry as does anyone in Atlantic City.¹

A more recent study sheds further light on the magnitude of immigration into the Atlantic City area. In 1981, the New Jersey Department of Labor and the Casino Control Commission conducted a sample survey of the 25,243 persons employed by the eight operational casino-hotels. The purpose of the study was to quantify and describe the migration of casino-hotel employees to the Atlantic City area by identifying their current and past county of residence. With regard to current residence, the study found that approximately seven out of ten workers (17,996) lived in Atlantic County at the time of the survey. Atlantic City residents accounted for approximately 25% (6,409) of the total workforce. Employees who commuted to Atlantic City from outside Atlantic County totaled 7,247, or approximately three out of ten workers. These commuters represented a sizeable increase over the 10% of the persons employed in Atlantic County who lived outside the county in 1970.

¹ Testimony of Steven Norton before the New Jersey Assembly Independent Authority and Commissions Committee, March 17, 1982, p. 36.

With regard to past residence, the study found that while 71% of all workers lived in Atlantic County at the time of the survey, only 53% had done so one year before applying for a casino-hotel employee license. An estimated 18%, or 4,595 employees, were living outside New Jersey one year prior to applying for a license. Pennsylvania was the primary source of/ ^{non-} residents with 1,863 persons while New York was the past residence of 380 employees. Florida (257) and California (270) were other states with appreciable numbers of immigrants. Nevada, an obvious source of experienced employees, was the past residence of 686 employees. Many of the 184 foreign residents were from locations with casino gambling such as the Caribbean Islands and England. Noting that 73% of Atlantic County and 76% of Ocean County's current residents who were casino-hotel employees were also past residents, the study concluded that "the figures indicate that the casino-hotels provided job opportunities for persons already living in the area."¹

One caveat concerning this conclusion should be noted. The vast majority (22,011 or 87%), of the applications for casino licenses were filed between 1979 and 1981. It is, therefore, conceivable that although the majority of casino-hotel employees lived in Atlantic County one year prior to applying for a license, many of them may have moved into the county following the passage of the casino referendum in 1976. This seems unlikely, however, given that the residency requirements could be satisfied by having lived anywhere in the state.

Although the conclusions of the Governor's Task Force and the Department of Labor study suggest that the influx of new workers has not been as great as is commonly believed, other evidence indicates that Atlantic City residents have experienced difficulty in finding employment in the casino industry.

¹ Crowley, supra, pp. 8-14.

The success of the local labor force in securing employment in any emerging industry depends upon (1) its possession of the skills and other work-related attributes required by the industry and (2) its ability to compete with individuals who move into the area in search of employment. On both counts, many Atlantic City residents were severely disadvantaged in the stiff labor market competition which ensued for employment in the casino industry.

As was discussed earlier, the poor, the elderly and minorities were all disproportionately represented in the pre-referendum Atlantic City population. The casino industry, an exacting employer, demands a skilled and highly motivated workforce. In many cases, the Atlantic City population possessed neither the skills nor the work experience required by the industry, especially for the higher paying, career-oriented jobs. According to an official of the New Jersey Department of Labor, many of the unemployed were unemployable even as janitors, maids or in other so-called back-of-the-house jobs.¹

The final report of the Governor's Task Force on Unemployment in Atlantic City contained the following composite sketches which fairly represent individuals who were unemployed or underemployed two years after the opening of the first casino-hotel. The Task Force emphasized that all four have some direct attachment to the labor market or are sufficiently motivated to seek employment or better employment opportunities, and do not constitute the people who are, perhaps, unemployable.

Mr. Jones, 43, has been working in the Atlantic City hotel industry for 15 years, and is currently a Reservations Manager. The "normal" work year for Mr. Jones extends from May 1st to September 30th. During this period, Mr. Jones earns approximately \$300 per week. From October 1st to April 30th, Mr. Jones is eligible for and receives unemployment insurance benefits of \$119 per week. Mr. Jones has adjusted his life style to this work pattern and income level (including unemployment compensation) and has no interest in obtaining full-time work during the off-season. He works periodically as a handyman and takes payment in cash.

¹ Martin Waldron, "Casinos Coming Up With Some Menial Jobs," The New York Times.

Mr. Smith, 24, has been working year-round as a short-order cook in a luncheonette in Atlantic City. Mr. Smith, a high school dropout with a minor police record, earns \$150 per week. Mr. Smith supported the Casino Gambling Referendum, expecting that it would offer him the opportunity to secure employment that would take him out of the kitchen and provide career potential. Attracted by the glamorous atmosphere and stories of high earnings, Mr. Smith wants to become a dealer but he is unaware of the regulations and procedures to be followed to meet his goal.

Ms. Doe, 33, is an unmarried mother of four children, ages 3, 6, 12 and 17. Ms. Doe has been receiving Aid to Families with Dependent Children (AFDC) for eight years, and has had no significant or steady work experience since she was a teenager. Ms. Doe has decided that she wants to work full time now that her children are older. Ms. Doe is not, however, interested in working in the casinos. She does not want to work in a "back of the house" hotel position because her parents and grandparents worked there and she wants something better for herself. Ms. Doe is not afraid of hard work and because of the increased levels of construction and high rates of pay, she is interested in construction work.

Mr. Brown, 65, owns his own home and has lived in the Atlantic City area all of his life. He and his wife currently receive \$400 per month in Social Security benefits and another \$150 per month as a pension from the Widget Company, where he worked 25 years until it closed five (5) years ago. Since then he has been unemployed, although he has actively looked for work. A skilled journeyman machinist and machine tool repairman, he supported the Casino Gambling Referendum because he expected it to benefit him and the Atlantic City area. Since the passage of the Referendum, his property taxes and sewer rents have increased considerably, as have his costs for home heating oil and other essentials. He has found it difficult to find employment in his craft, a fact he attributes to his age. His savings have already been eroded, he fears that he and his wife will have to sell their house and either move into an apartment or live with their children unless his economic condition improves quickly.¹

None of these profiles support the claim that the casino industry has failed to hire qualified local residents while recruiting workers from outside the area. Mr. Jones has no desire to work in a casino-hotel and appears to be quite satisfied with his present situation. Mr. Brown would prefer to work in his own

¹ Task Force, supra, p. 3.

trade and given his age would probably have difficulty getting a job within the casino industry. Mr. Smith and Ms. Doe are handicapped by an unfortunate combination of overdeveloped expectations and underdeveloped skills. According to the owner of a local employment agency, this combination is quite prevalent among Atlantic City residents. "We see quite a bit of what we term a sit-back-and-wait attitude. We have a lot of people who are sitting back and waiting for some grand thing to happen because of all the talk of casino glamour. They have a very unrealistic attitude... Unskilled people come in, apply for positions and don't even know what they are."¹

The Governor's Task Force came to much the same conclusion. It noted that the glamorous environment of casino employment tends to obscure the fact that the jobs are very demanding, placing the individual under intense and unusual pressures. Functioning successfully as a dealer, for example, requires quick computational skills, to determine winners and losers and to calculate pay-offs; excellent hard-eye coordination; constant concentration and observation of the players and surrounding spectators; and physical stamina to remain in one position for prolonged periods of time. In addition, pleasant appearance and strong social/interpersonal skills are necessary to attract and encourage people to gamble.

The Task Force further concluded that there was a mismatch between the skills demanded by the industry and those possessed by the local force. For example, the rapid pace of new construction created a huge demand for construction workers. Because of the low level of construction in Atlantic City prior to casino development, there was an inadequate supply of experienced construction workers. As a result, large numbers of workers had to be recruited from other parts of the state and region. Furthermore, the Atlantic City labor force, although resort and service oriented, was not used to the intense pressures of a 20 hour a day, year-round industry. Many individuals had apparently grown used to, and preferred, seasonal

¹

Michael Pollock, "Jobs Pour Into Resort, But Unemployment Remains an Albatross", The Atlantic City Press, December 18, 1980.

employment in the hospitality industry, supplemented with unemployment compensation during the winter months (for example, Mr. Jones described above). In other words, the precarious three-month economy which existed in Atlantic City prior to the advent of casino gambling was from the perspective of many residents a positive aspect of living there and had attracted individuals who preferred such a life style. One prominent Atlantic City political leader has observed that, "Before casino gambling, people came here for the sunshine. We had a city where nonworkers came." Casino operators have complained that this attitude has caused serious problems in retaining staff during the winter months, resulting in excessive costs due to overtime and overstaffing. Although it did not examine this issue in detail, the Task Force did express concern that certain public assistance programs (i.e., unemployment compensation and Aid to Families with Dependent Children) discouraged or restricted people from seeking or obtaining employment.¹ One outspoken critic of the casino industry, Father James Halley of the Holy Spirit Roman Catholic Church in the South Inlet Section of Atlantic City, has expressed surprise that the poor would choose to work in the casino industry. According to Father Halley, "It's a tribute to people that they want to work for five dollars or ten dollars a week more than they would get on welfare. Maybe it's a monument to stupidity that they're doing it. Would you or I do it? Not unless we believe that exercise is good for us."²

The Task Force also identified a number of situational barriers to employment. Situational barriers are those external factors over which the individual has no control, but which affect his or her ability to enter and remain in the competitive labor market. Included in this category are (1) an inadequate public transportation system, (2) an insufficient supply of housing within the city to attract and maintain a stable resident workforce, (3) a lack of family care facilities

¹ Task Force, supra, p. 26.

² Pollock, "A Tale of Two Cities," supra, pp. 5-6.

for elderly residents and young children, (4) a limited awareness of the employment training and service programs available to those in need of such assistance and (5) difficulties in learning about casino and casino related employment opportunities. The Task Force also stressed that the licensing process implemented by the Casino Control Commission may discourage and intimidate persons who would otherwise seek casino employment. It reported, for example, that one Task Force member, with staff assistance, required 11 hours to complete the license application form. Furthermore, some of the information required on the application was considered by some Task Force members to be irrelevant and perhaps unconstitutional, infringing on the rights of the applicant and on the rights of their families and associates who may also be investigated. Delays (sometimes for as long as a year) involved in the completion of the extensive background investigation required for licensure were an additional barrier to employment.

The industry's perception of local workers as unsatisfactory employees has been criticized as inaccurate and, therefore, unfairly stigmatizing of good local workers. The local population's history of seasonal employment is attributed to the previous lack of year-round employment opportunities, rather than their alleged preference for seasonal employment. One of the arguments made in favor of the casino referendum was that legalized gaming would de-seasonalize Atlantic City's tourism-dominated economy. For the industry to now claim that residents of Atlantic City are unsatisfactory employees because of their history of seasonal employment is viewed as a betrayal of the same people who worked so hard to have the referendum approved. What is needed, according to this view, is greater emphasis on providing Atlantic City residents with employment and training services which would qualify them for positions in the casino-hotels. This issue was addressed at a recent hearing held by the New Jersey Assembly Independent Authorities and Commissions Committee.

In response to a question regarding the availability of training or educational programs to assist unemployed individuals, Mr. Philip Taylor, a planner for a local community action program, stated:

Yes, there is one program. In fact, I am on the board of that program -- the Atlantic County Private Industry Council -- which has made an attempt to join both the casino industry as well as county government in providing job training. The problem with that is that it is extremely limited, both in funds and in requirements that specifically require people to meet eligibility requirements for specific training.

Basically, what we have done over the last two years is to provide training for between 1500 and 2000 people. But, most of that training was -- I hate to say -- dead-end jobs. They were not the complex career-type employment that many of these people will ultimately need. In other words, for example, our own agency had a furniture refinishing training program, based on the premise that it would be more cost-effective for casinos, after they had been open for a few years, to employ people to repair broken furniture in their hotel rooms or on the casino floor. We trained 24 people who successfully completed the course. In the meantime, we came to the end of that training program only to find out that the casino industry has no serious intent to employ these people at all. In fact, the training program was a disaster. Fortunately, we were able to get some of these people employed in ancillary industries, such as construction trades. But, we feel there was a lack of good faith there. The casino industry will use job training programs to their own benefit, but not to the benefit of the vast number of people who need training in some specific skill that they can actually market. Plus the fact that the casino industry has shown repeatedly to us that they are only interested in providing training for their own specific employees. They are not interested in a general job training that might help someone find employment on a permanent basis, perhaps outside the casino industry. So, there are programs, but they are very limited.¹

Mr. Taylor's comments illustrate three problems which must be addressed before any progress can be made in improving the employment prospects of the hard-core unemployed. The first is the need for a substantial expansion of the number and scope of job training programs available to those in need of such services. The second is the need for greater coordination between the training provided and

¹ Hearing before the New Jersey Assembly Independent Authorities and Commissions Committee, March 16, 1982, p. 12.

those skills demanded by prospective employers. Third, and perhaps most important, there must be a significant change in attitude with respect to the casino industry's obligation to the local labor force. Mr. Taylor's comments concerning the casino industry's use of job training programs for their own benefit and its lack of interest in subsidizing programs which prepare individuals for employment outside the industry exemplify an attitude which is prevalent among Atlantic City residents, i.e., let the casinos do it. Having provided thousands of new jobs directly in the casino-hotels and indirectly in other sectors of the local economy, the industry should, according to this view, now turn its attention to providing employment training programs to prepare people for work outside the industry. In effect, the industry is being held responsible for the failure of the public sector to provide these much needed programs. The government's ability to meet this need is in doubt. The Atlantic County Division of Manpower's budget was slashed from \$12 million in 1980 to \$3.2 million in 1981. Before the budget cuts, the division spent approximately \$1,000 per student and had trained more than 1,000 workers who are now employed in the casino industry. These training funds have been largely eliminated, however. The Atlantic County CETA program has suffered similar cutbacks, employment in that program having dropped from 5,000 to 1,000.¹

Two criticisms of the impact that legalizing casino gambling has had on the local labor market exemplify the predicament the industry faces in responding to its critics. On the one hand, the casinos are accused of skimming the cream of the local workforce, thereby causing a rapid escalation of pay scales, the closing of existing business and the hiring of unskilled workers for skilled positions. On the other hand, positions within the casino-hotels are often described as dead-end jobs which offer low pay and limited opportunity for advancement.

¹ Pollock, "A Tale of Two Cities," supra, p. 6.

According to a report in the Wall Street Journal, hundreds of health care workers have deserted their jobs for the higher salaries offered by the casinos. Nurses are working as cocktail waitresses. Former clerical workers are dealing cards. One hospital official claims that "probably half of the casino housekeeping and boiler room staffs have been trained by the hospitals."¹ Rapid employee turnover has also caused problems in the public sector. Officials in Atlantic City estimate that the county experienced an average employee turnover rate of 23% between 1977 and 1979.²

The movement of individuals among firms and between industries in response to wage differentials is an integral part of the labor market adjustment process upon which a free enterprise system is founded. A new industry will draw workers from existing business if it offers higher wages and better working conditions than are available elsewhere. In most cases, an industry would be applauded for improving the employment opportunities available to the local labor force. By way of contrast, the casino industry is criticized for its willingness to pay wages high enough to attract and hold the most qualified workers. Arguing that the problems resulting from rapid employee turnover are inevitable wherever there is a large influx of new industry and jobs, one casino executive believes the industry is being accused of working itself into a Catch 22 situation: "The casino gaming experiment in Atlantic City threatens to be such a success that it is headed for failure."³

The existence of a wage premium for casino-hotel employees was confirmed by a recent study by the New Jersey Department of Labor and Industries.⁴ In 1981, the Department conducted a survey of Atlantic County employers to determine the prevailing salaries and wages in business firms which employ ten or more persons. The results of the survey are reprinted in the following table.

¹ Michael Waldholz, "Casino Fever Infects Nurses in Atlantic City," The Wall Street Journal, February 4, 1981.

² Lampen, supra, p. 34.

³ Steven Norton, "Casino Gaming in Atlantic City - A Booming Success," Public Gaming Magazine, May 1980, p. 30.

⁴ New Jersey Department of Labor and Industry, "Atlantic City Wage..." supra, pp. 10-14.

Table 2. Wage Survey, Atlantic County, N.J., September 1930

Occupation	Casino Wages ¹			Noncasino Wages ¹			Casino "Mean" Premium
	No. of Workers Studied	Mean	Range	No. of Workers Studied	Mean	Range	
<u>Professional and Clerical Employees</u>							
Clerk-Typist	57	\$4.39	\$3.85-\$5.00	306	\$4.59	\$2.57-\$7.60	(4.5) ²
Computer Operator	23	7.22	5.41-10.58	56	6.08	4.00-9.95	18.7
Keypunch Operator	4	5.86	5.45-6.00	38	4.95	3.50-7.50	18.4
Payroll Clerk	10	5.32	5.00-5.75	76	5.24	3.10-9.95	1.5
Programmer	5	8.48	7.93-8.85	45	9.10	3.65-15.25	(7.3) ²
Secretary	107	5.69	5.00-6.13	365	5.52	3.15-12.86	3.1
Stenographer, General	-	-	No data given	39	4.80	3.22-7.44	-
Switchboard Operator	41	5.37	4.62-5.63	74	4.26	3.10-6.54	26.1
Systems Analyst	5	15.18	13.13-18.25	3	11.48	9.54-13.25	32.2
Teller ³	100	7.00	-	317	4.06	3.10-8.70	72.4
<u>Maintenance Workers</u>							
Janitor ³	287	4.63	-	430	4.98	2.53-7.16	16.3
Maintenance Carpenter ³	11	9.04	-	52	5.86	2.85-9.52	20.6
Maintenance Electrician	42	8.52	8.28-9.04	51	7.03	3.10-11.60	54.0
Stationary Engineer ³	19	9.32	-	42	6.05	3.10-5.25	76.4
<u>Hotel and Restaurant Employees</u>							
Busperson	249	3.65	3.13-4.63	92	3.21	1.75-7.25	13.7
Cafeteria Attendant ³	79	4.63	-	158	3.42	2.95-5.20	35.4
Cashier ³	219	4.63	-	164	4.01	3.00-8.42	15.5
Chef	27	9.93	9.01-10.00	20	6.04	3.10-12.50	64.4
Cook	164	7.16	6.88-7.50	151	4.63	2.81-8.33	54.6
Desk Clerk	42	5.42	5.00-5.75	55	4.48	3.10-8.75	21.0
Dishwasher ³	103	4.63	-	93	3.45	3.00-4.76	34.2
Kitchen Worker ³	89	4.63	-	135	3.84	2.85-9.52	20.6
Parking Lot Attendant	76	3.31	3.00-3.45	44	3.71	1.75-8.00	(12.1) ²
Restaurant Manager	16	8.59	7.50-14.42	40	6.92	2.40-15.00	24.1
Security Guard	511	6.29	5.25-6.50	311	4.90	3.10-12.00	28.4
Short-Order Cook ³	16	6.88	-	28	3.90	3.10-5.25	76.4

¹ Casino wages appear to be significantly affected by union contracts whereas the noncasino wages appear to be little affected by union contracts.

² Figures in parentheses are minus percentages (workers in casinos earned less).

³ Where no range is given, the mean is the union rate being paid at the time of the survey.

Source: New Jersey Department of Labor and Industry.

The table shows that casinos paid higher average hourly earnings in 22 of the 26 occupations surveyed. The only occupations for which higher average wages were reported by noncasino establishments were (a) clerk-typist, (b) parking lot attendant and (c) computer programmer. Food service and hotel housekeeping workers in the casino-hotels enjoyed the greatest wage premium. Hourly wage rates for workers in those categories ranged from 13% to 75% higher for workers in the casino-hotels than for their counterparts in noncasino establishments. On average, casino-hotel employees in these categories earned 34% more than workers in similar positions in noncasino enterprises. The data reported for the clerical and maintenance occupations that constituted the remaining workers in the survey revealed that casino wages were an average of 21% higher. The Department's analysis omitted any consideration of the impact of earnings from tips, which may constitute a significant portion of total earnings in some occupations since such information can not generally be verified for credibility or completeness. Nor does the survey include workers who are employed in the casino department of the casino-hotel facilities or in other positions which are unique to the casino industry.

The Department concluded that the casino wage differential is due to union contracts negotiated for casino-hotel workers. The wage scales set in these collective bargaining agreements are generally pegged to those of persons in similar occupations in different geographic areas. The typical noncasino business firm in Atlantic County is a small nonunion establishment (50-75 employees) whose wages are set primarily by being competitive with the prevailing wages paid by other area firms.

Another factor accounting for the casino wage premium relates to the nature of the industry. The casinos have been paying wages high enough to attract and maintain skilled workers in positions unique to the industry. It appears from the survey / that casino-hotel salary structures may be predicted on the higher-paying unique

skill occupations which have brought up the salary levels of the occupations studied. Further, the casinos may be willing to pay premium wages for minimal skill occupations in order to maintain a stable labor force. Finally, competition between the casinos for qualified workers puts upward pressure on wage scales.

The survey shows that the vast majority of casino-hotel employees (in the job categories covered) receive significantly higher wages than their counterparts at noncasino business. Furthermore, the greatest wage differentials were reported for food service and hotel housekeeping staff. Because these jobs are relatively unskilled and do not, in most cases, require previous experience, they can be filled by individuals whose qualifications for employment are limited. Absent casino gambling, most of these people would be unemployed or be working for lower wages, or would have had to relocate to find work. In addition, because the survey does not include the higher-paid casino employees, it understates the impact that casino employment has had on local income. Many casino employees make more than \$20,000 a year, in some instances, far more.

Secondary Growth

One of the principal goals of legalizing casino gambling was to spur non-casino development by encouraging the expansion of existing business and attracting new firms. These positive spillover effects would result from (1) the tremendous purchasing power of the casino industry workforce, (2) spending by casino customers at local shops and restaurants, and (3) purchases of locally-produced goods and services by the casino industry. It was estimated at the time of the casino referendum that the establishment of eight to ten casinos would generate between 30,800 and 70,800 permanent new jobs outside the casino-hotels.¹

¹ Gladstone Associates, Atlantic City Master Plan, November 2, 1977, p. 5.

Assessments of the casino industry's actual and potential success in generating these positive secondary effects have been mixed. Critics charge that the casino industry is displacing, instead of reviving, the pre-referendum resort industry. As a result, they argue, the goal of developing Atlantic City as a diversified, family-oriented resort has fallen victim to the casino industry's voracious appetite for land and labor. They fear that the end result of this trend will be that the local economy will become more one-dimensional and casino dependent, not more diversified, stable and balanced as casino advocates had promised.¹ An alternative view holds that disappointment with the results to date is premature and can be traced to unrealistic expectations about the time horizon over which this secondary growth might be generated. This combination of overly ambitious expectations and short-run horizons has caused people to lose sight of the fact that the metamorphosis of an entire city is an idealistic goal, at best, and a long, gradual process at a minimum.²

Initially, it appeared that local merchants would prosper from the presence of the casinos. A 1978 survey sponsored by the Atlantic City Merchants Association reported that retail sales by local establishments were up substantially; 72% of the stores increased their business in the Summer of 1978 while 76% of the stores experienced like returns in the Fall period. Substantial gains occurred in men's and women's apparel, jewelry, furniture and home furnishings, and general merchandise.³ This success was short-lived, however. According to a report attributed to the Executive Director of the Atlantic City Chamber of Commerce, approximately 400

¹ New Jersey Department of Community Affairs, supra, p. 10.

² Peter R. Tyson, "Wither Atlantic City?" Laventhol and Horwath Third Annual Gaming Conference, The Gaming Industry - 1981, October 29, 1981, p. 25.

³ Hawkins, supra, p. 24, citing Harriette S. Hopkins, The Revitalization of the Central Business District of Atlantic City.

(19%) of the city's 2,100 independently-owned businesses closed between 1976 and 1979.¹ More recently, the President of the Atlantic City Merchants Association stated that sales were off 20% in the last four years and that 40% of the city's retail space has disappeared.² There are several reasons why the rapid growth of the casino industry has not been matched by a corresponding increase in nongaming business.

As noted above, the buying power resulting from the paychecks of the casino industry workforce was expected to translate into higher sales for local merchants. While retail sales in Atlantic County have increased substantially in recent years, Atlantic City merchants, with few exceptions, have not fared as well. This is consistent with the survey discussed earlier which disclosed that the majority of casino-hotel employees do not reside within Atlantic City. In other words, individuals would be expected to make most of their retail purchases where they live, not where they work. Furthermore, many casino-hotel employees who commute to Atlantic City park in satellite parking areas at the outskirts of the city. They are transported to and from the casinos by bus. This practice has been encouraged as a means of reducing traffic congestion and the attendant environmental degradation. It has had the unanticipated and undesirable side effect of making it very difficult for retailers in the city to tap this potential market.

Noncasino businesses were also expected to benefit from spending by persons who visited Atlantic City primarily to gamble. It was anticipated that this source of spending would rejuvenate the city's ailing retail and service industries and support a large number of new jobs outside the casino-hotels. For several reasons, the hoped-for spillover of visitor spending to local business has not occurred.

Estimates of the probable economic impact of casino gambling in Atlantic City were based upon data drawn from the experiences of other jurisdictions, pri-

¹ Michael Hawkins, "Casinos and Land Use: Law and Public Policy", Connecticut Law Review, Summer, 1980, p. 802, citing The Atlantic City Press, March 6, 1980.

² "Atlantic City Yet to Reap Share of Casino Windfall," The New York Times, August 29, 1982, p. 50.

marily Nevada. These projections failed to account for the marked differences between the Atlantic City gambling market and that of Nevada. Casino gambling in Nevada draws visitors from considerable distances. For example, 65% of all visitors to Las Vegas reside more than 300 miles away. These visitors stay for several days (averaging 3.8 in Las Vegas) and make sizeable expenditures for purposes other than gaming (averaging between \$40 to \$50 daily). Atlantic City has not, as yet, succeeded in duplicating Nevada's success in drawing on a national market. Visitors to Atlantic City are primarily day trippers who arrive by car or bus, seldom stay overnight and spend far less on nongaming activities than do their Nevada counterparts.

William Eames, Executive Director of the Greater Atlantic City Chamber of Commerce, has described the typical Atlantic City visitor as having a "racetrack philosophy" in that they come for a day of casino gambling and when their time runs out they go home.¹ Mr. Eames' choice of words is somewhat ironic since proponents of casino gambling had argued that it would provide much greater spillover of economic benefits than other forms of gambling. They noted, for example, that while racing and jai alai could draw large numbers of people to a track or a fronton, the nature of the event and the relatively short distance traveled provide little reason for individuals to stay overnight or otherwise lengthen their stay. Further, racetrack and jai alai frontons are usually located in isolated locations, and under such circumstances there is little opportunity for the bettors to engage in outside spending. According to proponents, casino gambling, on the other hand, would attract visitors from considerable distances to spend several days. These visitors would patronize businesses located outside of the casino facilities and leave behind large sums in the local economy, accounting for a great number of jobs as this income is spent and respent.²

¹ Frank J. Prendergast, "A. C. Tops Vegas in '80 Visitors," The Atlantic City Press, January 7, 1980, p. 22.

² John K. Haeseler, "Implications of Casino Gambling for Economic Development," Public Gaming Magazine, Fall 1977, p. 5.

The lack of outside spending by casino patrons is also due, in part, to the nature of the casino industry. The "price" of casino gambling to the customer is the statistical advantage the casino has over the player as determined by the various win-loss rules of each game. Because these rules are fixed by regulation, casino management has very little control over the price of gambling. Since the chances of winning or losing are virtually the same from casino to casino, competition among casinos takes place on nonprice factors such as design, ambience, amenities and the availability of nongaming goods and services. In effect, casino operators attempt to develop a captive audience by providing within the confines of the casino-hotel virtually anything the typical tourist might desire. To the extent that casino operators are successful in this attempt, they substantially reduce the potential benefit spillover to surrounding business. Moreover, there is very little opportunity for visitors to Atlantic City to engage in outside spending. Numerous shops and stalls along the boardwalk have closed in recent years. The fast-food restaurants, pinball arcades and souvenir shops which remain offer little incentive for shopping along the boardwalk. Finally, frequent press accounts of the dramatic increase in crime which has occurred in Atlantic City since the arrival of the casinos have probably made many people afraid to venture outside the casinos.

The introduction of casino gambling was expected to stimulate the development of an extensive secondary/support industry. As new businesses were established and existing companies expanded, the city, the region and the state would all share in the creation of hundreds (if not thousands) of new jobs. The extent to which this has occurred is not known. Each Atlantic City casino-hotel currently spends approximately \$30 million per year for the purchase of goods and services. Seventy percent of this amount, or almost \$200 million for the industry as a whole, is spent in the State of New Jersey. More than 5,000 companies, ranging from small family-owned operations to large corporations, are supplying the casino industry with merchandise

and services. Unquestionably, the addition of this much "new money" into the state economy has generated a substantial number of new jobs. But, according to some Atlantic City merchants, very few of these jobs are being generated in the city. Ms. Connie DeVinney, President of the Atlantic City Women's Chamber of Commerce, argues that "many businesses that expanded to meet the anticipated demands of the casino industry are facing financial crisis today because the casino industry takes their business out of town."¹ In 1980, the Atlantic City Casino Hotel Association responded to complaints of this sort by adopting a resolution establishing a policy of dealing locally whenever possible. Ms. DeVinney and others contended that this resolution has been ineffective and have requested that the Casino Control Commission require that local business be accorded preferential treatment. They suggest, for example, that each casino-hotel be required to allocate some fixed percentage of their total spending to business within Atlantic City.

Mr. Steven Batzer, President of the Greater Atlantic City Chamber of Commerce, takes an opposing view.² He believes that quotas favoring local vendors are neither justified nor fair. According to Mr. Batzer, such a requirement is anti-thetical to the free enterprise system and could be justified only by proving that the casino industry intentionally discriminates against local business. Noting that his organization has seen no evidence that this is occurring, Mr. Batzer admonishes the sponsors of the proposal to accept the fact that they must "compete in the real world."

The rampant speculation in real estate sparked by the casino industry's presence has also severely retarded the growth and development of a secondary/support business community. Business without direct ties to the casino industry are being

¹ Testimony before the Assembly Independent Authorities and Commissions Committee, March 16, 1982, p. 2.

² Ibid., March 17, pp. 50-52.

forced out of the city by escalating land values and the attendant increases in rents. Many Atlantic City landlords, expecting to sell their property for casino or related development, have ceased making needed capital improvements to existing stores. Some landlords are even willing to forego renting their stores in the belief that having tenants might impede a quick sale.

The lack of convention trade is also hindering noncasino development. A vibrant convention trade was always recognized as a critical factor in rebuilding Atlantic City as a nationally competitive resort and convention destination. One of the reasons for restricting casinos to hotels containing at least 400 first-class hotel rooms was to provide a stock of accommodations sufficient to house large national conventions. Despite the addition of 4,788 new rooms, the city's total inventory of hotel accommodations is still insufficient to meet that goal. In addition, the city's small downtown airport can not accommodate the size or volume of aircraft necessary to transport thousands of convention delegates. Finally, the city has not proceeded with the planned expansion and modernization of its obsolete convention center. The direct and indirect economic losses to the city from its inability to attract a greater number of conventioners has been estimated to range in the hundreds of millions of dollars.

Despite the difficulties described above, there is reason for optimism regarding future expansion in the nongaming business community. As existing businesses close, they will, in all likelihood, be replaced by entrepreneurs better able to take advantage of the opportunities represented by 19 million visitors and more than 30,000 workers. Preliminary results of an Atlantic City central business district study indicated that the city has the potential to become an urban core of Southern New Jersey. Private investor confidence in the city's ability to support nongaming business is evidenced by the decision of Equitable Life Assurance Society and Krovoco, Inc. to invest approximately \$40 million to develop a retail center on

the city's former Million Dollar Pier.¹ As speculation in real estate declines, rental rates should stabilize and capital improvements will increase. Further, although the results to date have been disappointing, it is generally agreed that Atlantic City has unlimited potential as a convention destination. If the proposed amendments to the Casino Control Act's 2% alternative investment option (discussed below) are adopted, there should be a substantial improvement in the city's physical appearance. This would make the city a more appealing place to live and shop. Similarly, as more and better quality housing becomes available, a greater number of casino industry workers will live in the city.

The Alternative Investment Option

In addition to the 8% levy upon casino gross revenues, the Casino Control Act also includes a complicated - and seriously flawed - tax credit provision designed to encourage casino industry investment in noncasino developments.² The Act provides that in each year in which the gross revenue of a casino exceeds its cumulative investment in the state an additional 2% tax obligation will be incurred. The law defines cumulative investment as equity investment in and debt financing of real property and real property improvements. If and when the licensee incurs this obligation, it may elect to either pay the additional tax or make an equivalent investment or contribution approved by the Casino Control Commission. Except for approved contributions of money or realty, only equity investment in land and real property on which improvements are made, and in real property improvements may qualify. The Casino Control Commission is responsible for determining the public interest in investments and contributions proposed by the casinos and for approving or disapproving them on the basis of those findings.

¹ Lampen, supra, p. 32.

² NJSA, s. 5:12-144(b) - (f).

Under the present statute, the casinos are allowed to defer payment of any obligation incurred/for five years. A 1980 amendment to the Casino Control Act provided that the first annual assessment of the 2% obligation would be dated from 1979. As a result, no casino will be liable for this obligation until 1984 and then only for those that operated in 1979 and had gross revenue in excess of their cumulative investment. During the first three years of each casino's obligation, 50% must be allocated for investment in Atlantic City and 50% for the state; after the first three years, 25% of alternative investment funds must be allocated for Atlantic City and the remaining 75% elsewhere in the state. If the licensee chooses instead to make the 2% tax payment, revenues derived from this payment would accrue to the Casino Revenue Fund. As required by the constitutional amendment authorizing casino gambling, these funds must be used solely for the purpose of supporting programs to assist the elderly and the disabled.

Although six of the nine casinos in Atlantic City have incurred obligations under this provision, the first mandated tax payment or investment is not due until 1984. Because the development and construction costs of several of the casino-hotels far exceeded initial estimates, the apparent practical effect of the present statute is that some casinos will escape any obligation, while others will have minimal obligations. Moreover, tax lawyers for the casinos have stated that it would be more profitable for the casinos to invest in money market funds, pay the 2% tax five years later and get a federal tax credit, than it would be to invest the money in Atlantic City. Having concluded that the current statute poses "certain difficulties which, in sum, create more of an impediment than a solution for devising a source of public investment support for Atlantic City noncasino development," the Casino Control Commission has recommended several amendments to the Act.¹

¹ New Jersey Casino Control Commission, Policy Paper, The Investment Obligation: An Alternative to Other Tax Liabilities, December 1982.

One change recommended by the Commission is that the current cumulative investment test be discarded in favor of a straight requirement for either an added tax payment or an alternative investment. This approach would eliminate consideration of the cost of building the casino-hotel facility as a test of whether a company is obligated for an urban renewal investment. The Commission believes that although the cumulative investment criteria has merit in that it obligates only those casinos generating annual revenues in excess of their total investment, it also creates "a disparity in the effort to encourage the industry to contribute to noncasino development." The Commission feels that a straight requirement will, by spreading the investment obligation among the entire industry, be more equitable and effective in the long term. The Commission further recommends that any tax or alternative investment obligation incurred under the amendatory act be due and payable in the succeeding calendar year. The rationale for this change is that under the current five-year deferral option, it is more likely that a company will elect to pay the tax rather than make an equivalent investment.

A third recommendation is that the alternative investment or additional tax obligation be set at 5% of each casino licensee's Modified Operating Income (M.O.I.). This is defined as operating income (i.e., income before income taxes, extraordinary items, gains or losses on the disposal of property, and nonoperating income and expenses) before interest, depreciation, amortization and intercompany expenses. This approach, the Commission feels, can envelop all of the industry in an alternative investment tax obligation through a plan that promotes fairness for all casino-hotel properties. Rather than imposing additional liabilities based on gross revenues - an approach which the Commission viewed as an unfair penalty against the industry and one which would conjure up the specter of unreliable tax policies - the M.O.I. reflects operating costs. This is a truer measurement than gross revenues of the ability of each casino-hotel to meet its investment or tax obligation.

Another proposed change is that the definition of investments be broadened to include investments to be placed in various forms of property through various devices, including financial instruments that will provide greater flexibility and will better meet the changing development needs in Atlantic City and other parts of New Jersey. As noted earlier, the present statute defines investments as equity investments in land and real property on which improvements have been made and in real property improvements. Casino operators have complained that this restrictive definition makes the alternative investment option unattractive. They argue, for example, that they are not in the land development or housing businesses and do not have sufficient experience in these businesses to make decisions on noncasino commitments. They have also expressed great reluctance to tie up their resources in property with low liquidity and limited rates of return. The changes recommended by the Commission would enable the casinos to meet their investment obligation by purchasing bonds issued by such agencies as the Atlantic County Improvement Authority or the Atlantic City Housing Authority.

In order to accelerate the redevelopment of Atlantic City, the Commission has proposed that the current allocation formula be amended to allow greater use of investment funds within Atlantic City. Specifically, the Commission recommends that all investment obligations incurred but not yet satisfied for calendar years 1979 through 1982 be invested in Atlantic City. In addition, all investment obligations incurred under the proposed amendatory act for the first ten years of operation by each casino should also be dedicated to Atlantic City. During the following ten years of each casino's investment obligation, 50% would be allocated to Atlantic City and 50% to the rest of the state. In order to establish outer limits for the program, the Commission proposes that a 20-year sunset provision be applied to the investment obligation.

The Commission's recommendations are currently being considered by the New Jersey Legislature. According to Richard J. Coffee, Executive Director of the Majority Party Policy Staff of the New Jersey General Assembly, there is a "strong possibility" that the Legislature will enact the proposed changes. "The Legislature will insist that the casinos begin doing more to help the city. It's a sore point with the Legislature and that goes for both sides in both houses."¹ William J. Downey, Executive Director of the Atlantic City Casino Hotel Association, has expressed support for the proposals saying, "It won't please the casinos that have no obligations under the present formula, but for the industry as a whole, it's probably as equitable a plan as can be devised."² What kinds of investments or contributions will qualify under any amended version of the obligation is still unresolved. Community groups in Atlantic City are pressing to have most, or all, of the funds dedicated to housing. The casino industry and its supporters believe the expansion and rehabilitation of the Atlantic City Convention Hall should receive priority.

Housing

Population Growth

It was widely expected that the introduction of casino gambling would stimulate a massive influx of individuals (and their families) seeking employment in the casinos and related enterprises. These new residents would overwhelm an already tight housing market, increase the demand for public services and cause numerous social problems associated with excessive population growth. This much feared population explosion has not occurred. Preliminary results of the 1980 federal census

¹ Donald Janson, "Jersey Urged to Step Up Casinos' Aid Payments," The New York Times December 3, 1982, p. B2.

² Ibid.

indicate that the population of Atlantic County has increased by a modest 10.8% since 1970, while the population of Atlantic City actually has declined by 16% during the same period.¹

An analysis of regional growth patterns performed by Data Resources, Inc. for the Atlantic Electric Co. found that previous estimates of population growth and the associated housing needs were exaggerated, as they failed to consider the role the existing South Jersey workforce would play in fulfilling the casino industry's manpower needs. Previous estimates assumed a nearly 100% fulfillment of employment demand through in-migration. However, Data Resources attributed the low rate of initial growth in the region to the following factors: (1) reductions in the level of unemployment, (2) transfer of employees from the declining manufacturing sector to the casino industry, (3) reduced commutation out of the region and (4) the entry into the labor market of those not previously employed.² Moreover, a recent article in Public Gaming Magazine states that "While the picture is incomplete, it appears that future city and regional population growth will fall far short of original projections and...will most likely increase at a more controlled and even pace."³ Atlantic County has a current population of 194,000 and could easily accommodate a population between 500,000 and one million people. Recent population projections do not foresee the county's population even approaching the half million mark for some time. The Atlantic County Division of Planning forecasts a population of only 356,599 by the year 2000 if 20 casinos are operational in Atlantic City by that time.⁴

¹ Lampen, supra, p. 33.

² Ibid.

³ Ibid., p. 34.

⁴ Michael Pollock, "Houses The Odds Don't Favor," New Jersey Reporter, May 1982, p. 29.

The Housing Market

Although the influx of new residents has been less than was originally expected, an already bad housing situation has worsened since the advent of casino gambling.

The introduction of casino gambling in Atlantic City has been described as a de facto rezoning of the city for the gaming and entertainment industry.¹ Spokesmen for Atlantic City neighborhood associations maintain that thousands of long-time residents have been forced out of their homes by (1) the rezoning of residential neighborhoods for casino and related development, (2) the rampant speculation in real estate which has swept the city, (3) the rapid escalation of property taxes and (4) the dramatic increases in rental rates. The long-term result of these trends, they fear, will be that the city increasingly becomes a place for well-to-do residents (thus reversing past trends in the opposite direction), while surrounding communities receive an increasing proportion of the poor.

The real estate market which exists in Atlantic City today is often compared to a real life monopoly game. Lured by the promise of quick riches, speculators have rushed into the city to buy up every available piece of real estate. Two years after the passage of the gambling referendum, more than \$214 million in real estate transactions were recorded in Atlantic City. According to the city's tax assessor, this represented an increase of more than 800% over the two years prior to the referendum. Two years later (1979-80), total real estate transactions in the city more than doubled again, totaling \$436,308,000, a 1,600% increase over the two-year period prior to the referendum.²

¹ Testimony of New Jersey Public Advocate, Joseph Rodriguez, before the New Jersey Assembly Independent Authorities and Commissions Committee, March 16, 1982, p. 30.

² Tantillo, supra.

In one dramatic episode, dubbed "The Bellevue Avenue Civil War," neighbor fought neighbor to see if all 66 households would agree to a developer's all or none \$100,000 per home offer.¹ One area in the inlet section of the city experienced such speculation that land zoned for moderate income housing was offered at \$2 million per acre. Absentee landlords, hoping that their land will be rezoned for casino or other higher use development, have stopped making necessary repairs. Speculators, interested only in the underlying land, have evicted tenants and razed buildings to make room for high-rise condominiums, prospective casino development or other non-residential uses. Some former residential property has even become more profitable as parking lots. Residents of the inlet area, home to much of the city's minority population, have been particularly hard hit by these developments, and fires, many of suspicious origin, have become commonplace.²

According to some observers, a host of governmental policies and actions have fueled the frenzied speculation in real estate. For example, the rapid pace of casino development found the city largely unprepared. It had no full time planning department, it lacked a master plan and its zoning ordinances could neither accommodate nor control the explosive pace of casino-hotel construction. The failure to quickly implement a land use plan to control the city's redevelopment, coupled with the willingness of the Atlantic City Zoning Board to negotiate zoning changes with potential casino developers, encouraged speculators to act as if virtually every piece of land might some day be rezoned for casino development. They were further encouraged in this belief by daily announcements that yet another company was interested in operating a casino-hotel within the city.

¹ Tyson, supra, p. 26.

² Donald Janson, "Jersey's Casinos Blamed for a Housing Shortage," The New York Times, July 23, 1981, p. B1.

In 1979, the Casino Control Commission reacted to the incidents which were occurring in the siting of casinos in the city. In a strongly-worded policy statement, the Commission took the position that casino development must take place in accordance with the city's master plan:

As long as the issue of where hotel-casino facilities can be located within Atlantic City remains an open question among investors and developers, land speculation in the city will continue and instability within the community will result...the ability of the marketplace to adequately supply the large numbers of lower and moderately priced houses... will steadily diminish...This Commission must ensure that the provisions of the Atlantic City master plan are adhered to... for the general welfare and security of the entire Atlantic City community...¹

Even efforts to protect the citizens of Atlantic City from being forced out of the city have inadvertently exacerbated the housing problem. For example, the cut in the property tax rate in 1978 had the effect of substantially reducing the cost of holding property off the market for speculative purposes. Rent control regulations, while protecting tenants from dramatic rent increases, also discourage private developers from building in the city.

Both Atlantic County and Atlantic City officials complain that the state, preoccupied with regulatory and administrative matters, has shirked its responsibility to aid in the physical redevelopment of Atlantic City. In some instances, they argue, state policies have served to compound local problems. For example, the Pinelands Protection Act virtually excludes more than 80% of the land area within 30 to 45 minutes commuting time of Atlantic City from development. The effect of this policy is to push development away from the mainland and pinelands areas into the coastal region. At the same time, restrictions imposed by the Coastal Area Facility Review Act of 1973 push development back into the mainland area. The effect of these conflicting policies has been to substantially reduce the amount of land available for housing and other development.

¹ The Atlantic City Press, August 30, 1979, p. 1.

Atlantic County Executive Charles Worthington has expressed dismay over "the fragmentation that now exists in many state agencies, each devoted to its own philosophy and pursuing its own objectives in attempting to force the region to conform to its expectations, and frankly, to a total lack of coordinated state development policy. There is no development policy in the State of New Jersey."¹

In addition to the pernicious impact of rampant speculation, the Atlantic City housing market, like the national one, has been adversely affected by the high cost and limited availability of mortgage money. According to Allan Malloch, Executive Director of the Atlantic City Housing and Urban Redevelopment Authority, the high cost of construction and financing alone, exclusive of site acquisition outlays, would require a rent of \$600 a month for a two bedroom apartment.² The construction of nonsubsidized housing in price ranges affordable to low income families, large families and elderly households is virtually impossible under these circumstances. As a result, as of May 1982, there was only one nonsubsidized housing construction project being built in the city, and that was a luxury high-rise condominium development designed for the very wealthy. When that project opens, it will be the first nonsubsidized living space available in the city since 1976.³

Although more than 1,000 units of subsidized housing have been started or completed in Atlantic City since the passage of the casino referendum, the amount and quality of housing available to the poor has declined during the same period. According to the 1980 census, Atlantic City lost 10% of its housing stock between 1970 and 1980. This is due in part to the razing or neglect of apartment buildings by absentee landlords who hope to sell their land for casino or related developments.

¹ Testimony before the Assembly Independent Authorities and Commissions Committee, March 16, 1982, p. 23A.

² Pollock, "Houses The Odds Don't Favor," supra, p. 24.

³ Ibid.

It also reflects the severe deterioration in the city's housing stock which occurred prior to the introduction of casino gambling. During that period, many buildings had been allowed to deteriorate to the point where they were beyond rehabilitation. In other cases, the high costs of rehabilitation have required substantial rent increases. While persons who work in the casino-hotels can afford these higher rents, many Atlantic City residents can not.

Central to the issue of improving the housing situation of the poor is the question of whether Atlantic City can reasonably be expected to support additional subsidized housing. It is felt in some quarters that the city already has, or is rapidly approaching, the maximum number of subsidized housing units that a viable city can absorb.¹ The city currently has approximately 4,000 units of subsidized housing. According to the Governor's Report on Fair Share of Housing, the city's "fair share" of subsidized units is roughly 2,000.² Many policymakers feel that future housing initiatives must be in the area of homeownership, with special emphasis on attracting middle class households back to the city.

The obligation of the casino industry to invest in or to provide housing is unclear. In response to pressure from the Casino Control Commission, one company, Resorts International, has spent \$15 million on housing developments outside the city and has agreed to buy \$1 million of low-interest bonds from the Atlantic City Housing Authority and Redevelopment Agency to finance new housing within the city limits. Community groups are pressing the Commission to require each casino to provide funds for or to invest in low and moderate income housing within the city. They argue that one of the promises made during the referendum campaign was that the city's housing

¹ New Jersey General Assembly Legislative Oversight Committee, Housing and Casinos in Atlantic City, April 26, 1979.

² Materials provided by Mr. Michael J. Matthews, Commissioner, Atlantic City Department of Revenue and Finance, March 3, 1982.

stock would be improved. This promise was, in their view, incorporated into the Casino Control Act's statement of policy and legislative findings, which states:

Legalized gambling has been approved by the citizens of New Jersey as a unique tool of urban redevelopment. In this regard, the introduction of a limited number of casino rooms in major hotel complexes...will facilitate the redevelopment of existing blighted areas...¹

A latter section of the Act provides that, when considering license applications, the Casino Control Commission should take into account "the effect of the proposal on the overall environment, including without limitation, economic, social, demographic and competitive conditions...of Atlantic City and the State of New Jersey."² According to community action groups, these sections vest the Commission with the responsibility for and authority to require the casino industry to provide housing.

Spokesmen for the casino industry take the position that the legalization of casino gambling was not proposed and should not be viewed, as a panacea for all of the city's problems. While conceding that their presence has exacerbated an already serious housing problem, casino executives are adamant in their position that the industry should not be made directly responsible for providing housing. Mr. Thomas D. Farrell, Vice President and General Counsel of Harrah's Marina Casino, argues that such a requirement would be counterproductive:

...Atlantic City's redevelopment efforts can be best fostered by harnessing the engine of casino development to create jobs, generate taxes, and stimulate tourism, and not by deflecting it into areas in which we have no expertise or which have traditionally been governed by the public sector. We will cooperate with you in easing the growing pains of Atlantic City's redevelopment, but we cannot solve all of the attendant consequences of economic growth which we have helped make possible.³

¹ NJSA s. 5:2-1.

² NJSA s. 5:12-83.

³ Testimony before the Assembly Independent Authorities and Commissions Committee, March 17, 1982, p. 44.

Spokesmen for the industry have also expressed concern that having provided the tools for rebuilding the city, they are now being held responsible for the government's inability to use the resources put at its disposal. Mr. Steven Norton, Executive Vice-President of Resorts International, argues that

When someone like the Public Advocate asks Resorts International and the casino industry to build housing in Atlantic City, I say, where are those requests made to other New Jersey firms? Merck Pharmaceutical earns \$300 million to \$400 million after taxes. They employ over 20,000 like the casino industry does. Has anyone ever asked them to build houses in Trenton or wherever in the State of New Jersey? I contend that it is not the responsibility of the private sector. We pay enormous taxes, fifteen times our earnings. Let's use those to redevelop Atlantic City. We certainly support the concept of housing in Atlantic City. But, as I mentioned, I resent the implication that the burden falls solely on our shoulders.¹

During a recent public hearing, Mr. Joseph Rodriguez, Public Advocate, State of New Jersey, testified:

Increasingly, it appears that casino money is pushing permanent residents out, while it brings transients in; population had dropped in Atlantic City by 16% since 1970, by 20% among senior citizens. Without intending it, the effect may be described as a de facto rezoning of the city for the gaming and entertainment industry.²

Mr. Rodriguez's comments raise one of the key issues of economic development policy. Economists describe this issue as the choice between "place prosperity" and "people prosperity" as the appropriate target for economic assistance programs. The latter means aid to people (the unemployed, the poor, the underprivileged, the minorities); the former aid to places (rural underdeveloped areas, old industrial regions, inner city ghettos). If "place prosperity" is a reasonable surrogate for "people prosperity," it follows that improving economic conditions within a geographical area becomes almost equivalent to maximizing the welfare of the target population. There are a number of difficulties with this assumption, however.

¹ Ibid., p. 35.

² Testimony before the Assembly Independent Authorities/Commissions Committee, March 16, 1982, p. 30. and

One problem is that the population of a place changes over time, not only via natural processes (birth and death) but as a result of migration. Pumping aid into an area will not be effective if the targeted population soon moves away. Another problem is that the "place prosperity" approach implicitly assumes a population of identical incomes and abilities. If incomes and abilities vary widely (as is usually the case), there is no guarantee that location policies will help the poor and the unemployed. On the contrary, historical experience suggests that the businessman and the landowner tend to be the main beneficiaries. This, according to many people, is exactly what has occurred in Atlantic City.

Indeed, it is clear in retrospect that many of the adverse consequences of legalizing casino gambling were inevitable by-products of superimposing a boom town environment on a stagnant urban resort. For example, during Atlantic City's declining years, many of the hotels were unable to sustain themselves by relying on the shrinking tourist and convention trade. They responded by offering permanent tenancies to local residents. Low rents and spectacular ocean views made the hotels attractive alternatives to conventional apartment units, especially to the city's large community of retirees. With the passage of the casino referendum, the waterfront hotels occupied by these elderly citizens became prime locations for casino-hotel development. Astronomical rent increases or, more often, outright evictions soon followed. The displacement of these persons is one of the most unfortunate consequences of Atlantic City's success as a gambling resort. Preventing this development could only have been accomplished, however, at the cost of foregoing the redevelopment of the city. There was, in other words, an unavoidable conflict between the people and place objectives of an urban redevelopment program based on casino gambling.

A similar line of reasoning can be applied to the forced exodus of many long time residents of the city due to dramatic increases in the price of apartment.

rentals. Inevitably, changes in values which benefit some individuals will harm others; rising land values and rents that increase the wealth of some individuals require others to pay increased amounts for housing. As was indicated earlier, the middle class had largely abandoned the city, bequeathing it to the poor, the elderly and minorities. The city's main appeal to these latter groups was the availability of low and moderate cost rental units. As the rents they could demand declined, landlords allowed their properties to deteriorate. This process of disinvestment accelerated the physical, social and economic decline of Atlantic City as a place. One of the stated goals of legalizing casino gambling was to halt this process by facilitating the redevelopment of existing blighted areas. What appears to have been overlooked is the extent to which, absent government intervention, redevelopment becomes synonymous with displacement. Redevelopment requires the renovation of existing properties and the construction of new buildings. The increased rents needed to cover the costs of these improvements are beyond the means of those who can pay only minimum rents. In the absence of governmental assistance in the form of rent subsidies or public housing, the original inhabitants of the area will be replaced by new, more affluent residents. Property owners, acting in their own best interest, will make every effort to accelerate this trend. The city as a place will reap the benefits of a more affluent population and an expanded tax base. Many of the original residents will be forced to either relocate or pay an increasing portion of their income for housing.

The Fiscal Impact of Casino Gambling

Atlantic City

The net fiscal impact of any new development depends upon the difference between its contribution to public revenues and the cost of providing the public services it requires. Local governments have become very resourceful at using zoning ordinances, building codes, subdivision regulations and environmental laws to

prevent projects which would have adverse fiscal impacts. One of the objectives of such policies is to ensure that new entrants at least pay their own way, or better still, that they reduce the tax burden of present residents. The fiscal impacts, both positive and negative, of the casino industry on Atlantic City and the state have been tremendous.

On the positive side, the industry has dramatically enhanced the city's revenue-raising ability. Atlantic City's principal source of municipal revenues is the property tax. The fiscal plight of the city prior to the introduction of casino gambling is reflected by the substantial erosion of its property tax base. In 1972, the city's total assessed valuation stood at \$334 million; by 1976 (the year of the casino referendum), it had declined to less than \$300 million. This downward trend continued until 1978, with total valuation of all property for tax purposes dropping to \$290 million. Over the next 12 months, as the casino industry was established, the city's property valuation soared to \$1.2 billion, an increase of almost 400%. In 1982, citywide assessed value rose still further and now equals approximately \$1.5 billion. Property tax assessments for casino-hotel properties have increased from almost \$28 million in 1977 (9% of total citywide assessed value) to more than \$895 million in 1982 (59% of total citywide assessed value). Property taxes paid by casino-hotels have increased from approximately \$2 million in 1977 to more than \$40 million in 1982; over this five-year period, the city has collected more than \$84 million in property tax revenues from the casino industry.

Atlantic City officials contend that the millions of dollars that have flowed into municipal tax coffers as a result of casino-hotel and related development have been largely offset by the costs of providing services to the casinos and the millions of tourists they attract. The city has had to expand its police, fire, traffic, maintenance and other municipal departments. At the same time, the city's payroll costs are being driven up by the need to compete with the higher salaries

offered by the casinos. Between 1980 and 1981, the number of city employees increased by 223 or 15%. The city now employs 1,700 people or about one out of every 23 residents of the city. The 1981 budget included 27% pay hikes for the five city commissioners (an earlier attempt to raise the commission salaries by 50% was defeated). Raises like the 54% hike for the chief administrative aide in the Department of Parks and Public Properties, the 63% hike for an engineer in Public Works and the 38% raise for the Tax Collector were commonplace.¹ In addition, although capital expenditures to date have been modest, the prospective costs of maintaining modernizing and expanding the city's physical plant (i.e., street, water and sewer systems, etc.) are substantial.

In 1977, the city government had a local purpose budget of slightly more than \$35 million. By 1981, the city was spending more than \$64 million and the 1982 budget was \$77.6 million, an increase of more than 100% in five years.² City officials maintain that the rapid growth in city spending is attributable to the increased demand upon public revenues now that Atlantic City is a thriving resort. A more cynical view holds that pay raises for various officials and the hiring of new personnel for political reasons have played a part in driving up the city budget. According to this view, the Atlantic City government, long characterized by inefficiency and inept leadership, has failed to channel the massive investment by the private sector into citywide improvements. It has, instead, maintained a policy of mortgaging long-term interests for short-term gains.³

¹ Michael Pollock, "Know When To Hold 'Em; Know When To Fold 'Em," New Jersey Reporter, June 1982, p. 16.

² Ibid.

³ Ibid.

City officials complain that the municipal government's ability to accommodate the fiscal pressures generated by the emergence of the casino industry has been undermined by cutbacks in the city's luxury tax, reductions in its share of school and state aid and increases in its contribution to county taxes. Michael Matthews, Atlantic City Commissioner of Revenue and Finance, has estimated that the \$16.2 million in increased property taxes the city had realized as of March 1981 were largely offset by the loss of \$2.8 million in luxury tax revenues, a \$6.1 million decline in school and state aid, and an increase of \$6.4 million in county tax assessments. The result, according to Commissioner Matthews, was a net gain to the city of only ^{\$0.9} million.¹ The Commissioner's analysis is only partially correct, however.

In New Jersey, the costs of county government are apportioned among the constituent taxing districts on the basis of their proportional share of the total equalized valuation of the county as a whole. Since assessed values often lag market values, County Boards of Equalization compute equalization ratios for each municipality on an annual basis. By comparing current sales transactions with assessed values, the boards determine each municipality's equalized valuation (i.e., the current market value of all taxable property). Atlantic City's 1982 equalization ratio was 47.6% (i.e., based on current market values, the city's total assessed value of \$1.5 billion was less than 48% of its equalized valuation of \$3.2 billion). The dramatic increase in its equalized valuation has caused the city's share of the total county tax levy to rise from 17% in 1978 to 39.3% in 1982. Although this has resulted in a substantial increase in the share of county government costs borne by Atlantic City property owners, it does not represent a diversion of funds from the municipal to the county government. The city merely increases the municipal property

¹ Information provided by Commissioner Matthews. In 1982, Mr. Matthews was elected Mayor of Atlantic City.

tax rate by an amount sufficient to cover the county tax levy. In 1982, the county tax levy accounted for approximately ninety cents of the city's \$4.52 per \$100 of assessed value property tax rate.

Commissioner Matthews also refers to the city's loss of luxury tax revenues. Until recently, the city received substantial revenue from a local excise tax imposed upon: (1) the sale of alcoholic beverages in restaurants, cafes, bars, hotels and other similar establishments; (2) admission charges to any of the previously mentioned establishments plus the sale of tickets by any theater, movie, pier, exhibition or other place of amusement; (3) room charges at hotels, inns, rooming or boarding houses; and (4) rentals of rolling chairs, beach chairs or cabanas. Prior to July 1981, the tax was collected by the city and deposited in the general municipal fund. Reflecting the city's fading appeal as a tourist attraction, total receipts raised by the 5% luxury tax declined from \$3.38 million to \$2.87 million between 1970 and 1976. In 1978, when Resorts International was in operation for seven months, luxury tax revenues rose to \$3.67 million; one year later, total collections had risen to \$4.57 million. During the first six months of 1980, the city collected almost \$2.5 million in luxury tax revenue. In July of 1980, the state began collecting the tax, retaining 1% and returning 4% to the city. In fiscal year 1981, the city received \$4.4 million in luxury tax monies. In July 1981, the luxury tax was increased to 8%. The state retained five-eighths of total revenues; an amount equal to two-eighths of total revenues was returned to the city and an amount equal to one-eighth of total revenues was deposited in a special fund to be used by the Atlantic County Improvement Authority. In March 1982, the tax rate increased to 10%, with the state receiving three-tenths of total collections. Of the balance, two-sevenths was returned to the city and the remaining five-sevenths was deposited in a special fund for the use of the Atlantic County Improvement Authority. In fiscal 1982, Atlantic City received \$2.1 million in luxury tax revenues; approximately \$3.2 million was deposited in the special fund to support projects of the

Atlantic County Improvement Authority. In September 1982, the tax rate was increased yet again, rising to 12%. The state's share remained the same, the balance being divided between the city and the special fund. As of January 1, 1983, the city will not receive any portion of luxury tax collections.

The city has, as Commissioner Matthews stated, experienced a decline in its receipts from luxury tax collections. The \$2.1 million received by the city in fiscal year 1982 is approximately \$0.8 million less than the amount the city collected in 1976, prior to the opening of the first casino hotel. However, as noted earlier, a large portion of luxury tax revenues is deposited in a special fund to support projects funded by the Atlantic County Improvement Authority. By statute, expenditures from this fund are restricted to: (1) paying all or any part of principal and interest on bonds issued to finance the construction of low and moderate income housing within Atlantic City, (2) meeting any deficiency between the operating expenses and revenues of the Atlantic City Convention Center and (3) paying the principal and interest on bonds issued to fund improvements of the Convention Center. Thus, although the city government no longer has control over the expenditures of luxury tax revenues, the city does reap the benefits of such spending.

The city has suffered a substantial loss of discretionary state aid to education. These funds are distributed among the cities and towns in inverse proportion to the total equalized valuation per pupil in the municipality. Because of the dramatic increase in the city's property tax base, its property wealth per pupil is now more than half again that of Atlantic County and triple the state average. As a result, the amount of state aid to education funds received by the city has fallen by approximately \$5 million.

The State

From a statewide perspective, the fiscal impact of legalizing casino gambling has been overwhelmingly positive.

As originally enacted, the Casino Control Act imposed a tax of 3% on casino gross revenues. This is defined as the total of all sums received (including checks whether collected or not) less the amount paid out in winnings and a deduction for uncollectible gaming receivables.¹ In August 1979, the Legislature reacted to the phenomenal profits being realized by Resorts International by increasing the original 3% levy to 12%, retroactive to July 1, 1979. At the same time, it established a sliding scale of tax rates based upon the number of casinos in operation. The tax rate was set at 12% when three or fewer casinos were open, 10% when four casinos were in operation and returned to the original 3% when the number of casinos reached five or more. In conformance with these provisions, the tax rate was reduced to 8% with the opening of Harrah's Marina Casino in November 1980.

All funds raised by the casino revenue tax are deposited in a separate account known as the Casino Revenue Fund. The constitutional amendment legalizing casino gambling authorized disbursements from the fund solely for the purpose of providing reductions in property taxes, rentals and telephone, gas, electric and municipal utilities expenses for eligible senior citizens and the disabled. In 1981, the voters approved a constitutional amendment expanding the uses to which these funds could be put to include additional or expanded health care services or benefits, or transportation services or benefits, for seniors and the disabled. Revenues raised by the tax have increased from \$10.6 million in 1978 (when only one casino was in operation for seven months) to more than \$100 million in 1982. Since the opening of the first casino in May 1978, the state has collected more than \$300 million in casino tax revenues.

¹ NJSA, s. 5:12-24. The deduction for uncollectible gaming receipts may not exceed the lesser of a reasonable provision for uncollectible patron checks or 4% of the total of all sums received less the amount paid out in winnings.

State spending of casino revenue funds has become mired in controversy. Critics charge that the state has compromised the original intent of the constitutional amendment by using the funds to support existing programs for the elderly and disabled, thereby freeing other money, through a chain of transfers, for the general budget. Although the issue is complex, it deserves some discussion.

In fiscal year 1978, the state experienced a funding crisis. This was due, in part, to a dramatic increase in the cost of the Pharmaceutical Assistance to the Aged (PAA) program. This program was initiated in 1975 and originally paid 80% of prescription drug costs, not covered by medical insurance, for persons 65 years and older with incomes under \$9,000 for single persons and under \$12,000 for married couples. Poor response by intended beneficiaries of the program led to changes in October 1977 that substituted, in place of the previous complicated deductible formula, a simple co-payment of \$1 from the participant for each prescription filled. The program was also expanded to cover certain items and services which previously had been excluded. Expenditures for PAA jumped from \$3.2 million in fiscal year 1976 to \$9 million in fiscal year 1978 and \$32.7 million in fiscal year 1979. Because the increased cost of the program resulting from its modification and expansion had been underestimated, General Fund appropriations for the program proved to be insufficient and a supplemental appropriation was required. To meet this funding shortfall, the Legislature in December 1978 authorized an inter-fund transfer whereby the cost of a homestead rebate program for seniors and the disabled was charged to the Casino Revenue Fund. The homestead rebate program was initiated in 1976 along with the state income tax to help overcome public opposition to that tax. The rebates (\$130 for the average homeowner) are paid out of the Property Tax Relief Fund, which is supported by the state income tax. The transferred funds were used to pay for an additional \$50 rebate for elderly and disabled persons. The transfer device was necessary since casino revenue funds could not be

constitutionally spent for the PAA program. The transfer freed \$11 million from the Property Tax Relief Fund which was then used to support General Fund aid to education. This, according to one interpretation, made the funding of the added homestead rebate from casino tax revenue a proxy for a portion of the increased costs of the PAA program. Subsequently (FY 1980-82), the appropriation level by proxy was raised to \$17 million, an amount equal to the full cost of the extra \$50 senior and disabled citizen homestead rebate. The passage of the 1981 constitutional amendment (noted above) permits expanded PAA costs to be met by direct appropriation from the Casino Revenue Fund rather than through bookkeeping maneuvers.

Casino revenue funds have accounted for between 34% and 46% of PAA program costs since 1978 (1978-34%; 1979-46%; 1980-41%; 1982-39%). The expansion of the PAA program since 1978 represents a cumulative four year cost increase of \$120 million. A total of \$62 million of this added cost has been charged by proxy to the Casino Revenue Fund. The balance of \$58 million has been paid from General Treasury revenues.

The state budget for fiscal year 1982 provides for a one-time transfer of the entire cost (\$64 million) of homestead rebates for senior citizens and the disabled paid in previous years from the Property Tax Relief Fund to the Casino Revenue Fund. Although upheld by the State Attorney General as technically legal, the transfer was attacked as "imaginative bookkeeping" and "a clear violation of the spirit, if not the letter, of the original dedication."¹ Senator Steven Perskie, a chief sponsor of the original casino legislation, argued that casino tax revenues were intended to be used to support new programs not to sustain existing ones. Supporting the transfer, Senate President Joseph P. Merlino reasoned, "If an old program for the elderly gets in financial difficulty and we can no longer afford it out of

¹ Joseph F. Sullivan, "Casino Revenue Shifted By Byrne As A Budget Aid," The New York Times, July 7, 1981, p. D9.

general tax revenues, I think we should use the casino money to fund it rather than shut it down."¹ State Treasurer Clifford A. Goldman concurred, arguing, "I...think placing narrow dedications on revenue as a political tactic is a bad idea from an economic point of view."²

Casino revenue funds are also used to support the State's Lifeline Credit Program. This program, enacted in 1980, provides combined gas and electric utility credits of up to \$150 per year to New Jersey homeowners who are eligible for the PAA program. The cost of the entire program is charged to the Casino Revenue Fund and constituted the largest senior citizen program expenditure from casino tax revenues in 1980 and 1981. A 1981 change provides that tenants not receiving an individual utility bill, but otherwise eligible, and who are eligible for the Supplemental Security Income program shall receive increased SSI payments.

The third major use of casino revenue funds is to provide full reimbursement to municipalities for property tax deductions granted senior citizens and disabled persons. This deduction was increased in 1981 and will rise from \$160 to \$250 per year over a three-year period. In addition, a phased increase in the income eligibility limits was enacted, raising the maximum income limit from \$5,000 to \$10,000. The program was expanded further by extending the deduction to eligible senior citizens living in mobile homes taxed as real property. The cost of these program changes is estimated to total \$12.6 million and will be charged to the Casino Revenue Fund in 1982. The base amount of reimbursement before the program expansion was \$28.6 million and will continue to be paid from the Property Tax Relief Fund which is supported by the state gross income tax.

¹ Ibid.

² Ibid.

A recent analysis of the administration of programs for senior citizens and disabled persons came to the following conclusion:

Planning for the expenditure of casino tax revenues for senior citizens and the disabled has been fragmented. Legislative decisions frequently have been made to meet budgetary circumstances of the moment over the last five years. It is not apparent the decisions have been incremental steps in an overall plan. Nevertheless, the facts show that a plan has evolved for the use of casino tax revenues for expanded and new programs for senior citizens. It is likely the plan will continue to evolve. Thus far, the cost of expanded or new senior citizen programs has been equivalent or greater than the amount of casino tax revenues collected or anticipated. The passage of the November 1981 referendum broadening the constitutional bounds for spending Casino Revenue Fund receipts will give the Legislature the flexibility in future years to determine spending priorities without resort to special transfers between general and earmarked funds. It will allow the Legislature to make choices from alternatives ranging from full payment of the extra costs of PAA from the Casino Revenue Fund to the funding of other priority Senior Citizen programs.¹

Regulatory Costs

The Casino Control Act established a two-tiered regulatory system comprised of the Casino Control Commission and the Division of Gaming Enforcement. The Commission is a quasi-judicial body within the Department of the Treasury.

The Commission consists of five paid members who are responsible for the collection of all license fees and taxes imposed by the Casino Control Act. The Commission promulgates regulations and carries on a continuous study of existing and developing methods to control the casino gaming and casino service industries, prevents the material involvement of undesirable persons, conducts all hearings pertaining to civil violations of the Casino Control Act or its regulations and levies and collects all penalties appropriate thereto.

The Division of Gaming Enforcement within the Department of Law and Public Safety is charged with investigative and enforcement responsibilities under the

¹ Analysis prepared by Mr. Maurice S. Shier, New Jersey Office of Legislative Services, January 21, 1982, p. 7. (Copy on file in office of Legislative Research Bureau.)

direction and supervision of the State Attorney General. Its primary function is to prepare investigative and evaluative data for the Casino Control Commission prior to the consideration of casino licenses for operators, employers and services. The Division also performs audits and makes on-site compliance examinations of casino-hotel operations and litigates all contested civil and criminal matters relating to the enforcement of the Casino Control Act, both before the Commission and all courts.¹

Funding for both the Casino Control Commission and the Division of Gaming Enforcement comes entirely from the Casino Control Fund, a separate account used exclusively for this purpose. Revenues in the Casino Control Fund are derived from (a) annual license fees on casino operators (an initial fee of \$200,000 and subsequent annual fees of \$100,000), (b) annual license fees on slot machines (\$500 per machine), (c) various work permit fees, and (d) license fees for service industries, gaming schools, labor organizations and employers. Funds from fines and penalties also accrue to the Casino Control Fund. Casino Control Fund revenues have increased from almost \$1 million in fiscal year 1978 to an estimated \$30 million in 1982. Approximately 94% of all fee revenues are derived from various casino operating licenses (69%) and casino employee licenses (25%). Casino service industry licenses represent 4% of revenues. Fines, penalties and miscellaneous items account for the balance. Expenditures from the Casino Control Fund have increased from \$4.2 million in fiscal year 1978 to almost \$30 million in estimated expenditures for fiscal year 1982. Sixty percent of current Casino Control Fund expenditures are for the Division of Gaming Enforcement and 40% for the Casino Control Commission.²

¹ Ibid.

² Ibid.

CHAPTER III. THE ECONOMIC IMPLICATIONS OF LEGALIZING CASINO GAMBLING

Introduction

and the following

The purpose of this chapter is to apply the lessons learned from Atlantic City and other jurisdictions to proposals to legalize casino gambling in the Commonwealth. It does not, and it is not intended to, evaluate the merits of the current proposals to authorize the operation of casino-hotel facilities in the towns of Adams and Hull. Rather, its objective is to provide a framework for estimating the probable economic impact a casino-hotel will have on the host community, the surrounding region and the state as a whole. This approach has both advantages and disadvantages. Its major advantage is that findings presented below are general enough to be applied to proposals to operate casinos at numerous locations. This is important since neither Adams nor Hull are necessarily the sole, much less the optimal, sites for casino development. Indeed, a finding that one or both of these communities are not suitable for casino development will, in all likelihood, merely shift consideration to alternative sites. Moreover, none of the legalization proposals before the General Court would preclude casinos from being established in other locations.

The principal shortcoming of the approach used below is that it ignores conditions particular to any given community which will influence its ability to accommodate and benefit from the construction and operation of a casino-hotel. For example, it fails to take into account the availability, capacity or location of such factors as water and sewer lines, roads, housing, schools and other services, the demand for which is likely to increase as a result of the presence of a casino-hotel. Assessments of a city, town or county's ability to cope with this increased demand should be performed at the local level. Although the state can provide support and assistance, the ultimate decision of whether a casino should be sited in a community, as well as the responsibility for planning and implementing the programs

required by such a decision, must rest with the local residents and their elected representatives. Subject to these limitations, the following discussion will assist interested parties at both the state and local level in forming their own conclusions regarding the economic implications of legalizing casino gambling.

In recent years, the legislatures of at least a dozen states have considered proposals to legalize casino gambling.¹ The impetus for this interest has been the substantial contribution the casino industry has made to the economies of Nevada and, more recently, New Jersey. Proponents of legalization emphasize the casino industry's potential contribution to expanding employment, generating tax revenues and revitalizing economically distressed communities. As was discussed earlier, although these goals are closely linked, they may require different and potentially conflicting approaches to the legalization and control of casino gambling. The trade-offs engendered by the alternative development strategies available to a state considering authorizing casino gambling can be best illustrated by examining the experiences of other jurisdictions.

Casino Gambling and Tourism

Tourism and Economic Development

The most often made argument in favor of legalizing casino gambling is that it will stimulate tourism. Millions of tourists will flow into the state; leaving behind tens of millions of dollars to circulate and recirculate in the state's economy. The tourist-attraction value of casino gambling is obvious. A substantial minority of Americans, perhaps as high as 30% of the adult population, would gamble at casinos if they were given the opportunity to do so. If their own state will not allow them this opportunity, they will travel to one which does. It does not necessarily follow, however, that the legalization of casino gambling will

¹ Connecticut, Delaware, Florida, Iowa, Massachusetts, Minnesota, Michigan, Montana, New Hampshire, New York, South Dakota and Wyoming.

be a boon to tourism. Much depends upon such factors as: (1) the number, location and format of casino operations; (2) the existence of competing casino industries in other jurisdictions and (3) the response of the state's own population to easy access to casino gambling.

The importance of attracting nonresident gamblers is widely recognized. To serve as a catalyst for economic development, a casino must derive a substantial portion of its patronage from out-of-state residents. Nevada's success in using casino gambling as the bulwark of the state economy is dependent upon its ability to draw visitors from a national, even international, market. One of the main concerns of the drafters of the New Jersey casino gambling legislation was to ensure that the industry's development enhanced Atlantic City's marketability as a tourist and convention destination. Puerto Rico imposes several restrictions upon casinos to prevent heavy patronage by the local population. The Bahamas and several other jurisdictions have gone so far as to ban the indigenous population from gambling at casinos. In all of these cases, the objective is to use casino gambling as what economists refer to as an export industry.

According to one model of economic growth, a region's economic activities can be divided into two categories: (1) basic or (2) residentiary. The former is comprised of those industries which produce goods and services for the export market. The growth of a region is believed to be closely tied to the success of its exports and may take place either as a result of the expansion of its exports relative to other regions or by developing new exports. Basic industries are often targeted by states seeking to attract new businesses because they bring in new income from outside the region. Residentiary industries are those which produce goods and services for local consumption. Such businesses have limited potential for stimulating economic growth because they, for the most part, merely recirculate existing income.

Jurisdictions which have legalized casino gambling have done so for different reasons and have structured their licensing policies and regulatory systems accordingly. For the reasons discussed above, the most important difference between these approaches, from an economic perspective, is the emphasis placed upon attracting nonresident gamblers. This emphasis ranges from the total reliance upon tourist gamblers ensured by the Bahamian regulatory system to the local market orientation of casinos in England. Casino gambling in Puerto Rico, Nevada and New Jersey represents a compromise between these two extremes.

Casino Gambling in the Bahamas

In 1976, the Bahamas had two casinos, both owned by foreign companies that are licensed by the government. One casino is located on Paradise Island, across a causeway from the principal city of Nassau. The second is located at Freeport on Grand Bahama Island. The Paradise Island casino is a freestanding structure adjacent to a nightclub and cabaret theater and is attached by covered walkways to two nearby hotels. It has a casino floor space of approximately 22,000 square feet which contains 26 blackjack tables, seven crap tables, six roulette tables, two baccarat tables and 350 slot machines. Detailed information on the second casino is not available.

The casinos are authorized to operate 24 hours a day, seven days a week. Alcoholic beverages are permitted to be served in the casinos and are usually given free of charge. A moderately restrictive dress code is imposed to encourage a refined atmosphere and, unlike most other jurisdictions, the Bahamian casinos are allowed to accept wagers in either cash or chips.

Casino gambling in the Bahamas is viewed as a tourist amenity and Bahamian residents are prohibited from entering the casinos. Because of their proximity to the United States, the islands' casinos serve a predominantly North American clientele. The casino industry is not a major component of the islands' tourist industry;

according to surveys conducted by the Bahamian Ministry of Tourism, only 3.4% of the visitors questioned reported gambling as the main purpose of their trip. The minor role of casino gambling in attracting tourists to the Bahamas is also indicated by the low level of gross gaming revenue generated by the Paradise Island casino. In fiscal year 1975, the casinos' total gaming revenue equaled slightly more than \$2.9 million, or approximately 3% of the average gross gaming revenue generated by a Las Vegas strip casino. Although the Bahamas attracts far fewer visitors than Las Vegas (approximately one million versus five million in 1975), the latter had 43 casinos, while the Bahamas only had two.

Casino Gambling in Puerto Rico

Puerto Rico legalized casino gambling in 1948 to enhance the island's appeal to tourists and provide a new source of government revenue. In the words of the enabling legislation, "The purpose of this act is to contribute toward the development of tourism by authorizing certain games of chance customary in recreation resorts in famous tourist centers throughout the world...(and to afford)the Secretary of the Treasury of Puerto Rico an additional source of revenue."¹

The availability of casino gambling in Puerto Rico is not intended to be, and is regulated to prevent it from becoming, the principal stimulus for tourism. For example, in the preamble to one of its statutes, the Puerto Rican Legislature declared "that the basis of the tourist attraction to Puerto Rico is and shall continue being its extraordinary natural beauty, with special attention to its beaches, historical places and the charm of its people. Legal gambling at casinos is only an additional and secondary attraction offered to our visitors."²

In keeping with this philosophy, Puerto Rico has adopted a relatively restrictive approach to casino development. The number, location and type of casino

¹ Games of Chance Act (Act May 15, 1948, No. 221, s. 1, as amended).

² Act No. 2 of July 30, 1974.

operations are all controlled to ensure that casino gambling complements but does not compete with the island's traditional tourist attractions. Hours of operation¹ are limited to either 12:00 Noon to 3:00 PM or 3:00 PM to 4:00 AM. No liquor is permitted to be served in the gaming room and dress codes are used to promote an elegant atmosphere. Casinos are prohibited from advertising in Puerto Rico, and prior approval by government authorities is required for any advertisement intended for use outside Puerto Rico.

Puerto Rico currently permits the casinos to offer five games: (1) blackjack, (2) craps, (3) baccarat, (4) roulette and (5) bingo. Prior to 1974, slot machines were prohibited. In October of that year, the Legislature authorized the use of government-owned slot machines. Casinos which provided space for the slot machines were exempted from the 1% tax on gambling revenues. After deducting for all operational expenses, the net winnings from the slot machines are divided as follows: (1) 20% to the University of Puerto Rico, (2) 20% to the general education fund, (3) 20% to the Puerto Rico Tourism Development Corporation and (4) 40% to the participating casinos (15% of the casino's share is deposited in the tourism industry's development fund).

In order to avoid heavy betting and maintain the casino's appeal to the typical tourist, minimum and maximum bet limits are set relatively low by statute. With blackjack and craps, there is a \$1 minimum to \$100 maximum and \$5 minimum to \$200 maximum, respectively. With roulette, there is a \$1 minimum to \$10 maximum or \$1 minimum to \$20 maximum bet. Wagers at baccarat cannot be less than \$10 or exceed \$1,000. The Puerto Rican Legislature is currently reviewing an amendment to these rules which, if approved, would allow bets of as much as \$1,000 at blackjack and craps, \$100 for roulette and \$4,000 for baccarat. There are presently a total of 726 slot machines of nickel, dime and quarter denominations available in the island's casinos.

¹ Information provided by Puerto Rico Tourism Development Co. However, a recent article in Gambling Times (March 1983) states that casino hours at one named casino are from 1 p.m. to 4 a.m. (p. 39).

Although Puerto Rican casinos are not subject to any minimum size requirements, they must be attached to a hotel and are restricted to three tourism zones. At present, Puerto Rico has 12 casinos. Eight of these are located in San Juan; the remaining four are located in resort areas in the outlying areas of the island. Many of these hotels are located on large estates with tropical gardens and 18-hole golf courses and thus represent visitor attractions in their own right, exclusive of the presence of the casino.

The relatively minor role casino gambling plays in attracting tourists to Puerto Rico is indicated by the ratio of tourists who patronize the casinos to the total number of registered hotel guests. In 1967, the last year in which such an analysis was undertaken, the number of persons who gambled at the casinos represented less than 10% of the total number of guests registered at all hotels. There are indications, however, that the importance of casino gambling as a spur to tourism has been increasing over time. Between 1962 and 1968, the number of hotel guests at hotels with casinos increased much more rapidly than at hotels without them. The average number of guests in hotels with casinos was 2.3 times greater in February 1968 than in February 1962, compared with an increase of 1.8 at other tourist hotels. Part of the greater increase in the number of guests accommodated by hotels with casinos is due to an increase in the number of rooms at those hotels. In 1961, hotels with casinos accounted for 43.4% of all hotel rooms; in 1967, they accounted for 52.7%. It also suggests, however, that the presence of a casino was becoming a more important factor in the typical tourist's choice of hotels. This is further evidenced by the fact that the number of casino players as a percentage of guests registered at hotels with casinos increased from 16.6% to 19.5%. As a percentage of guests registered at all hotels, the number of casino players increased from 9.3% to 11.9%. Despite these trends, it is clear that casino gambling remains a relatively unimportant ingredient in Puerto Rico's appeal as a tourist resort.

¹ Keith Duke, Development of Tourism in the Commonwealth of Puerto Rico, November 1968. Although dated, this study was the only source of this information located by the Legislative Research Bureau.

Nevertheless, the casinos are an important part of the island's economy. Casino operations account for between 22 and 25% of gross income at the major hotels containing casinos; some major hotels obtain more than 50% of their net income from their casino operations. In 1976, employees of the ^{then} 11 hotels with casinos represented more than 80% of the island's tourist industry workforce. The Commission on the Review of the National Policy toward Gambling concluded that these hotels "represent the base of the island's tourist industry."¹

By far, the most interesting aspect of Puerto Rico's experience with casino gambling is its success in limiting gambling by its resident population. This has been accomplished not by statute (as in the Bahamas where local residents are banned from the casinos) but by strictly regulating the location, number and format of the casinos. The dress code requirements, the elegant atmosphere of the gaming rooms, the limited availability of slot machines, the restriction of casinos to first class hotels in the island's tourist zones and the prohibitions against advertising all tend to discourage participation by local residents.

It is estimated that no more than 10% of the gamblers at Puerto Rico's 12 casinos are island residents.² (The identification of local and nonlocal players is made by government inspectors from the Gambling Division of the Department of Tourism.) Although these inspectors came to know most of the Puerto Rican resident gamblers by sight, it is possible that some U. S. visitors of Puerto Rican extraction and other Spanish-speaking countries are counted as residents. The number of resident gamblers, therefore, may be slightly overstated. The percentage of total players who are Puerto Rican residents varies among the casinos. Based on data collected in 1967, casinos in Ponce and Mayaguez drew almost 35% of their total patronage from island residents. According to the source, local residents tend to prefer

¹ Commission on the Review of the National Policy toward Gambling, Gambling in America, 1976, p. 100

² Duke, supra.

the newer, quieter casinos. "The fast-paced gambling done in many of the larger casinos is avoided by Puerto Rican residents who like to participate in less intensive casino gaming."¹ Apparently, the majority of Puerto Rican citizens who gamble are content to bet on horse races and cockfighting, purchase lottery tickets, or play the illegal, but very popular, numbers game known as Bolita.

Casino Gambling in Great Britain

Casino gambling was first legalized in Great Britain in 1960. The British Parliament thus officially acknowledged that the people of Great Britain wanted to gamble at casinos and had, in fact, been playing casino games illegally. Because of numerous loopholes in the law, casinos were soon "flourishing like weeds in many parts of the country."² To bring the industry under control and reduce the number of casinos, the Parliament made substantial modifications in the law in 1968.

British authorities view casino gambling as a social evil which must be tolerated and controlled because it cannot be eradicated. The underlying principle of the British approach to casino gaming is that the number, scale and location of casino facilities should be "sufficient, but no more than sufficient, to satisfy an unstimulated demand for gaming which might otherwise seek an illegal outlet."³ The employment, tax revenue and economic development benefits of casino gambling play no part in the British regulatory scheme. Indeed, as Skolnick has observed, "if casino gambling was to disappear entirely from the British scene, the Board (i.e., the Gaming Board for Great Britain) would be congratulated."⁴

¹ Ibid.

² Royal Commission on Gambling, Final Report, July 1978, p. 286.

³ Ibid., p. 290.

⁴ Jerome H. Skolnick, House of Cards, The Legalization and Control of Casino Gambling, Little, Brown and Co., Boston, Mass., 1978, p. 335.

British casinos are operated on a club basis and only members and their guests are permitted to use the club's gambling facilities. Although membership is open to the public, an individual who wishes to join the club must make application for membership, in writing and on the premises, at least 48 hours before first taking part. Even members of the club must give notice on the premises of their intent to gamble 48 hours before being permitted to do so. Thus, the only persons allowed to gamble without meeting the 48-hour rule are guests of members. The intent of this requirement is to prevent impulse gambling by requiring that an individual's desire to gamble is strong enough to survive 48-hour delays. It is also intended to prevent organized gambling expeditions known as junkets.

Another effect of this requirement is to rule out weekend visitors and tourists as casino patrons. As a result, the casinos are forced to rely on the local population for their patronage. The British Tourist Authority and the British Casino Association have criticized the application of the 48-hour rule to tourists. In their view, the rule causes irritation to overseas visitors and loss of foreign currency earnings without promoting any interest of the (British) population. They argue that Great Britain has no obligation to, and thus should not, discourage impulse gambling by foreigners. The Gaming Board has rebuffed all efforts to allow an exception for foreigners, arguing that such a policy would be discriminatory, hard to enforce and invite an erosion of the rule as a whole. The Royal Commission on Gambling takes the position that "it is important that ^{the} foreign currency tail not be allowed to wag the dog of social control over gambling...Foreign earnings are a welcome by-product of casinos, but their pursuit must not undermine the whole structure of regulation and control."¹ The Commission also expressed concern over the discriminatory implications of excepting foreigners from the 48-hour rule:

¹ Royal Commission on Gambling, supra, p. 292.

Many people would find a discriminatory system objectionable. They would resent seeing gamblers who flourished foreign passports being let in while local residents were turned away. The creation of an exception to the rule would make it harder to enforce against those to whom it still applied. For these reasons, we think that irresistible pressure would be created for an abolition of the 48-hour rule for residents as well as foreigners. It is clear that there are some people in the casino business who would not find this prospect unattractive and would regard an exception for foreigners as the thin end of a serviceable wedge. In practice, the 48-hour rule can be maintained universally or not at all; and we believe that it should continue to apply to everyone.¹

It is sometimes claimed that, being unable to prohibit persons from gambling at a casino solely on the basis of their socio-economic status, the British gaming authorities have accomplished the same end by raising the cost of access to a casino beyond the reach of persons with moderate incomes. While it is true that some casino clubs require that new members be sponsored by an existing member and pay an initial membership fee of up to \$150, many of the clubs place virtually no restrictions on membership. The majority of casino clubs are in provincial towns and cater to local people who play for relatively modest stakes in modest surroundings. Many of these clubs require no membership fees and are open to anyone who meets the 48-hour prior notification requirement and is not considered to be an undesirable. The operators of these clubs believe that the collection of a membership fee is not worth the effort and administrative cost and might discourage patronage.

At the end of 1976, there were 121 casino clubs operating in Great Britain, of which 24 were in London, 81 in the provinces, four in Wales and 12 in Scotland. Although the vast majority of the casinos are located in the provinces, it is the swank London casinos which cater to rich British citizens and visitors from abroad that generate most of the industry's revenues. For example, the London casinos, which number only a fifth of the total, account for 75% of total gross revenues.

¹ Ibid., p. 293.

It is estimated that less than 300,000 out of the British adult population of 41 million gamble at the casinos with any regularity. Guests and visitors from other countries add another 100,000. These figures indicate that many of the casino clubs attract regular patronage from only a few hundred persons. Furthermore, the British population's casino gambling participation rate of far less than 1% suggests that regulations designed to prevent the stimulation of the demand for gaming have been remarkably successful. Prior to the adoption of the restrictive Gaming Act of 1968, casino gambling by the British population supported more than 1,000 casinos. Clearly, the population's demand for casino gambling has been substantially reduced by (1) prohibitions against advertising, (2) limitations on the number and locations of casinos, (3) prohibitions against entertainment in the casinos, (4) barring alcoholic beverages from gaming rooms, (5) limiting the number of slot machines to no more than two per casino, (6) the 48-hour prior notification requirement and (7) a government policy which permits but does not approve of casino gambling.

Casino Gambling in Nevada

Tourism

At first glance, Nevada's experience with casino gambling appears to be of little relevance to other states. For example, it is inconceivable that any other state would even consider legalizing casino gambling without imposing restrictions on the number, size, location and format of casino facilities. Nor is it conceivable that any other state would permit commercial gambling to become the single most important element of its economy. But first impressions are often deceiving and a closer look reveals that the historical development and present structure of the Nevada gaming industry offers many valuable insights into the economic implications of alternative approaches to legalization.

During its frontier period, Nevada's official policy towards commercial gambling wavered between periods of wide open legalization, tacit acceptance and outright prohibition. The present period of legalization was inaugurated in 1931 when the Nevada Legislature legalized commercial gambling in order to tax it. In effect, the Legislature decided to divert a portion of the profits being made by the state's thriving illegal gaming industry into the public coffers. Gambling proceeded with little change; funds that had been used to buy protection now went to pay the modest license fees and taxes.¹ It is unlikely that anyone at the time had any conception of the extent to which this relatively minor revenue-raising measure would dictate the future course of the state's development.

Prior to the legalization of casino gambling in Atlantic City, New Jersey, Nevada had enjoyed a monopoly on legal casino gambling in the continental United States for almost 50 years. During that period, it had evolved from a sparsely populated desert state with few natural attractions and almost no economic base into one of the most popular tourist and convention destinations in the world. The driving force of this remarkable transformation was gambling induced tourism. In the words of University of Nevada economist William R. Eadington, the availability of casino gambling made Nevada "more than just another state which was necessary to cross to get to or from California."²

The number of tourists visiting Nevada has increased from a few million in a typical year in the 1940's to an estimated 25 million in 1980. (Over the same period, statewide gross gaming revenues climbed from approximately \$25 million to \$2.4 billion.) On an annual basis, the number of visitors to the state is more than 30 times the resident population of 800,000 and on an average day approximately 18%

¹ National Commission, supra, p. 79.

² William R. Eadington, The Economics of Gambling Behavior: An Economic Analysis of Nevada's Tourist Industry, Doctoral Dissertation, Claremont College, 1972, p. 63.

of the people in the state are tourists. During peak visitation periods, the tourist population climbs to around 30% of the resident population.¹ In 1980, tourist expenditures on goods and services (excluding gambling) were approximately \$3 billion, or almost \$3,800 per Nevada resident.² The vast majority of this tourist spending is attributable, either directly or indirectly, to the availability of casino gambling. Surveys of visitors to Las Vegas consistently find that at least 50% of total respondents identify gambling as the principal reason for their visit. These surveys also indicate that more than 90% of all visitors to Las Vegas engage in some form of casino gambling during their stay. Entertainment is the second most-often cited reason for visiting. Obviously, the city's appeal as an entertainment center is an outgrowth of the presence of gambling. Not even Frank Sinatra could attract millions of visitors to a nongambling resort located in the middle of a desert.

As was indicated earlier, Nevada's approach to the legalization and control of casino gambling represents a compromise between the tourist-oriented approach of Puerto Rico and the local market orientation of English casinos. This has resulted not from statutory and regulatory requirements, but, rather, from the small size of the resident population and the state's monopoly, until recently, on legal casino gambling.

Nevada's illegal gaming rooms catered primarily to the local population. With the legalization of casino gambling in 1931, they also began to attract customers from the surrounding states, especially California. It was not until after World War II, however, that tourist-gamblers became an important part of their clientele. During the post-World War II period, several developments contributed to a steady expansion of the industry's drawing power: (1) improvements in air, rail and automobile transportation, (2) increases in per capita income and leisure time, (3)

¹ Economic Research Associates, The Role of Gaming in the Nevada Economy, May 1981, p. V-1.

² Ibid., p. II-1.

the growing acceptance of gambling as a legitimate form of recreation, (4) aggressive marketing and the development of large, luxurious gambling complexes, and, most importantly, (5) the state's monopoly of legal casino gambling.

Studies of visitor origin show that Nevada is still strongly dependent upon the neighboring Pacific states for visitors. In 1980, residents of California, Oregon, Washington and Idaho accounted for 61.9% of the approximately 25 million visitors to the state. The regional market is particularly important to the Reno and Lake Tahoe casinos, which draw more than two-thirds of their customers from the western states. In contrast, Las Vegas has succeeded in tapping a national, even international, market. In 1979, residents of the western states accounted for less than half (47%) of total visitors. Twenty-three percent of all visitors were from the midwestern states, 12% were from the southern states and the same percentage came from the eastern states. Foreign visitors accounted for 6% of total visitors to Las Vegas that year.

The National Commission on Gambling heard testimony from several Nevada witnesses who characterized the long-term Nevada resident as an indifferent gambler. These witnesses stated that although people may gamble excessively when they first move into the state, they soon become accustomed to the lifestyle and tend to lose interest in gambling.¹ A survey of Nevada residents by the Survey Research Center² of the University of Michigan suggests otherwise.

¹ National Commission, supra, p. 102.

² In the Summer of 1975, the University of Michigan Survey Research Center conducted two surveys as part of its study of American gambling behavior and attitudes for the Commission on the Review of the National Policy toward Gambling. The first of the two surveys was nationwide. The second was confined to a sample of respondents from Washoe, Clark and Carson City counties, Nevada. See Maureen Kallick, Daniel Suits, Ted Dielman and Judith Hybels, A Survey of American Gambling Attitudes and Behavior, 1979, 560pp.

In the Summer of 1975, 296 Nevada residents were surveyed to determine the extent of their gambling activity. Persons who had moved to Nevada because of the availability of gambling, and are presumably heavy bettors, were excluded from the survey. Consequently, estimates of the incidence of gambling in Nevada based on the survey are low for the total Nevada population. A national probability sample of 1,736 respondents allowed the Nevada resident population's gambling behavior to be compared to that of the national population.

The surveys indicated that 78% of the Nevada population bet on something in 1974, compared to 61% of the national population. Further, the incidence of betting was higher in Nevada in almost every demographic group. Twenty-seven percent of the Nevada population went to a casino in 1974, while more than 72% of Nevada residents played slot machines that year. Residents who visited the casinos did so an average of 28 times, while slot machine players played an average of 49 times in a year. In terms of dollar amounts wagered, the study found that Nevadans bet \$377 per player on slot machines inside and outside of casinos and \$846 per player for casino and table games. The study indicated a per capita yearly bet, or drop, of \$505.¹ Updated to 1980, using the Consumer Price Index, the equivalent drop would be \$844. Applied to the 1980 population of Clark County, Nevada (which contains Las Vegas) and assuming an average hold of 20% (i.e., the percentage of the amount bet retained by the casino as winnings), gambling losses by the local population totaled \$55 million.² In other words, gambling losses by Clark County residents accounted for less than 4% of the Las Vegas casino industry's 1980 gross win of \$1.6 billion. Thus, although the Nevada population gambles rather intensively, it does not represent a significant portion of the total market.

¹ Commission on the Review of the National Policy toward Gambling, Gambling in America, Appendix 2, 1976, pp. 361-416.

² Dr. Lawrence Durand, "The Market Potential of the Local Casino Gambling Market," paper presented at the Fifth National Conference on Gambling and Risktaking, Tahoe, Nevada, October 1981.

Employment and Tax Revenues

In contrast to other jurisdictions, Nevada has adopted a laissez-faire approach to casino development which permits the industry to expand and contract in response to market forces. Restrictions on the location, size, number, format and other aspects of casino operations are kept to a minimum. The prevailing attitude appears to be that "the decision to invest in new casino-hotel facilities should be a private decision that can best be made by the potential investors, because it is their capital being risked. They will undertake an investment only if the expected profitability outweighs the risk of capital losses."¹ Furthermore, according to this reasoning, "if investors decide to undertake a project, it can be argued that they are doing so to meet an otherwise unfilled consumer demand."²

Reflecting this philosophy, casinos are free to locate anywhere in the state; they set their own odds, rates of payout, minimum and maximum bets; they may, and most do, operate 24 hours a day; they are free to advertise; alcoholic beverages are readily available and are usually given free of charge to active gamblers; the use of complimentaries and shills to attract patrons is permitted; and casino operators are free, subject to certain restrictions, to establish their own practices regarding the provision of credit to their customers. This wide-open approach to legalization has been adopted because the people of Nevada and their elected representatives believe that the interests of the state and the industry are concordant (i.e., what's good for the industry is good for the state). As a result, Nevada officials are more concerned with encouraging the growth and profitability of the industry than they are in channeling its development to meet some narrowly-defined concept of the public good. In most respects, this approach has served the state well

¹ William R. Eadington and James S. Hattori, "Public Policy and Lake Tahoe: Economic Issues and Legislative History," Nevada Review of Business and Economics, Summer 1977, pp. 53-54.

² Ibid.

As the casino industry has grown, so too has its importance to the state economy. Gambling-induced tourism has become the state's major export industry and the Nevada economy has the highest tourism dependency of any state in the nation.¹ No other state is so dependent upon a single industry in terms of employment, income and tax revenues. And it is not hyperbolic to suggest that if there is such a thing as a "company state," Nevada is it.

A recent study estimated that 46% of the Nevada workforce (excluding construction workers) are engaged in activities which produce goods and services paid for with out-of-state funds (i.e., export industries). Sixty-five percent of this basic employment was directly attributable to gaming.² Moreover, an analysis of historical building trends showed that 70% of construction employment is gaming related.³ The importance of tourism is further indicated by the fact that the percentage of all workers employed in hotels is ten times higher for Nevada than the average for surrounding states. Economic Research Associates has estimated that without gaming, statewide employment would decline to 150,200, representing a loss of nearly 249,400 jobs from current levels.⁴

The casino industry is equally important to the state as a source of tax revenues. In fiscal year 1980, the state government collected \$330.7 million in taxes from seven major tax sources. Of these tax categories, more than 81% of revenues, \$269 million, is directly or indirectly attributable to gaming. Total state tax collections and the portion attributable to gaming are shown in Table 3.

¹ Economic Research Associates, supra, p. II-1.

² Ibid., p. II-2.

³ Ibid.

⁴ Ibid., p. IV-28.

Table 3 . FY 1980 Nevada Tax Revenues by Source
and Percentage Attributable to Gaming

<u>Tax</u>	<u>Amount Collected (Millions)</u>	<u>Attributable to Gaming Percent</u>	<u>Amount (Millions)</u>
Sales and use	\$122,009	65	\$79,306
Gaming privilege and casino entertainment	147,913	100	147,913
Cigarette	11,833	69	8,165
Alcohol	8,787	69	6,063
Gasoline	23,077	71	19,935
Insurance	11,924	60	7,154
Property tax	<u>191</u>	<u>60</u>	<u>115</u>
Total	<u>\$330,734</u>	<u>81</u>	<u>\$268,650</u>

Source: Economic Research Associates, The Role of Gaming in the Nevada
Economy, May 1981, p. II-3.

Because of the taxes paid by the gaming industry, Nevada has no corporate or personal income tax, no state inheritance tax and, in 1980, the ^{personal} property tax was eliminated. In 1980, per capita tax revenues from gaming amounted to \$336.

Characteristics of The Nevada Gaming Industry

Until recently, the high level of profitability and rapid expansion of the Nevada gaming industry seemed immune to the threat of market saturation. Statewide gross gaming revenues have increased from approximately \$25 million in the 1940's to \$2.384 billion in 1980. During the 1970's, a period when the industry was expanding at a rapid pace, gross gaming revenues increased at an average annual rate of 15.9%. This strong growth pattern has caused some observers to conclude that Nevada has merely scratched the surface of the demand for casino gambling. They believe it is

not overly optimistic, therefore, to expect that Nevada's success could be duplicated in their own state. The problem with this conclusion is that, by concentrating on the demand side of the market for casino gambling, it ignores the equally important supply side.

This issue has been addressed by William R. Eadington, in the following comment:

The fact that Nevada has not yet experienced market saturation is at least partially due to its historic monopoly in the U. S., and its previous difficulties in raising investment capital for financing the industry's expansion to its fullest potential. Since both of these factors have been altered in the 1970's, projections of future growth of the industry must take them into consideration. In general, the protected market position that existing Nevada gaming operations have enjoyed in the past is going to be subjected to additional competition, both internally through more rapid expansion of the gaming industry in Nevada (due to better access to sources of capital), and externally as more and more tourist destinations provide legal casinos.¹

The increase in internal competition has resulted from the entry of large publicly-traded corporations into the casino industry. Prior to 1967, public corporations were prevented from operating casinos in Nevada by a statutory requirement that all owners of a casino property had to be licensed by the State Gaming Commission. This requirement was aimed at preventing known criminals and other undesirables from being involved in casino operations. It sometimes had just the opposite effect, however. Cut off from conventional financing sources, some casino operators turned to less savory lenders. In 1967, the Legislature enacted the State Corporate Gaming Act which modified the statutes so that only officers and directors of a corporation as well as other major stockholders, lenders, underwriters, executives and key employees, as determined by the Gaming Commission, were required to be licensed.² This opened the door to corporate investors, who were quick to rush in.

¹ William R. Eadington, "Gambling and Nevada's Economy: Current Trends and Future Prospects," Nevada Review of Business and Economics, Fall 1978.

² Ibid.

In 1980, 21 of the state's 58 major casinos (those grossing \$2 million or more annually from gaming) were publicly owned. This group of casinos (1) generated 70% of the industry's total revenues (gaming and nongaming), (2) accounted for almost 78% of total assets, (3) employed almost 65% of the total workforce, and (4) paid 69% of total payroll costs, 81% of entertainment taxes and 72% of sales and use taxes.¹ By almost any criteria, the large publicly-owned casino-hotels have come to dominate the industry. They have also proven very lucrative for the companies that own them. In 1977, the most profitable hotel in the Hyatt chain was the Four Queens in Las Vegas, which generated 17% of Hyatt's pre-tax income. That same year, Hilton derived more than 33% of its profits from its two Las Vegas casino-hotels - the Las Vegas Hilton and the Flamingo Hilton.²

As indicated above, the Nevada gaming industry's strong performance has always been due in part to financing constraints which prevented the industry from expanding to its fullest potential. As a result, competition between the casinos for a fixed volume of gambling dollars had never become a serious problem. Instead, the industry as a whole appears to have benefited from the opening of additional casinos.

Although casino gambling is legal throughout the state, the Nevada gaming industry is concentrated in three major resort areas: Las Vegas, Reno and Lake Tahoe. Unlike in New Jersey, where casinos are restricted to Atlantic City by constitutional amendment legalizing casino gambling, the clustering of casinos in Nevada has resulted from market forces. This suggests that the casino industry is subject to substantial benefits of agglomeration. In other words, by clustering together, the casinos have apparently created positive externalities for one another, rather than

¹ Based on data in the 1980 Nevada Gaming Abstract published by the State Gaming Control Board.

² Patricia Moore Kolb, "Cashing In On Casinos," Restaurant Business, September 1, 1979, p. 99.

cutting into one another's volume.¹ Eadington suggests that "one reasonable explanation for this is that the preferences of tourist-gamblers favor the ability to change games and change casinos when luck or inclinations so indicate; thus, the presence of other casinos in the immediate vicinity gives a casino patron that mobility."² Thus, the opening of additional casinos in an area apparently stimulates a sufficient increase in the total number of visitors to the area to prevent competition among the casinos for a fixed number of gamblers.

The movement of gamblers between casinos is especially important to the smaller casinos, which locate around the larger facilities in order to tap the walk-by trade. One particularly adroit entrepreneur took this concept one step further. He purchased a parking lot next to the Caesar's Palace casino and informed its management of his intention to build a small, aggressive casino to pick up some of the in-between trade along the strip. He convinced Caesar's that it was in their own best interest to buy him out and turned a quick profit of \$833,000.³

The large casino-hotels view their smaller neighbors as spoilers who are getting a free ride by capturing gambling expenditures by persons who were drawn to the area by the presence of the large, glamorous facilities. They have attempted to neutralize the competition from the smaller operations by building even larger facilities. Their objective is to provide for all of the typical visitor's needs within the confines of their own facility. In effect, these operators are attempting to eliminate the very market conditions which led to the clustering of casinos in the first place.

Another reason for the trend towards larger casino-hotel facilities is the existence of economics of scale in casino operations.⁴ Comparisons of profitability

¹ Eadington, supra.

² Ibid.

³ Thomas Moore, "Atlantic City's Biggest Winner," Fortune, April 5, 1982, p. 46.

⁴ Eadington, supra, and Daniel Lee, Drexel Burnham, Lambert, Inc., Investing in Gaming, March 1981, pp. 4-5.

figures (i.e., net operating income as a percentage of total revenues before federal income taxes and extraordinary items) indicate that larger operations earn a higher rate of return than smaller operations. For example, in 1980, the average net operating income of the 11 Las Vegas Strip casinos with gross gaming revenues of \$1-\$10 million was 5.1%, compared to 16.4% for the 15 strip casinos with gross gaming revenues in excess of \$20 million. The average net operating income of the 10 downtown Las Vegas casinos with gross gaming revenues of \$1-\$10 million was only 2.8% in comparison to the 22.8% realized by the 11 downtown casinos with gross gaming revenues of \$10 million and over.¹ One explanation for the superior performance of the larger facilities is that the amount of nonproductive public areas and support staff tends to be disproportionately large in smaller casinos. Another explanation is that by increasing the facilities capacity, management is able to spread the operation's fixed costs over a greater volume of business. Since the variable cost of servicing one more customer is minimal, most of the revenues from business volume above the break-even point filter down to the bottom line.² Finally, the larger operations are able to supplement casino profits with revenues from their rooms, food and beverage departments.

The Nevada gaming industry's appeal to investors, as well as proponents of legalization in other states, has been enhanced by its seeming immunity to downturns in the national economy. Between 1960 and 1980, gross gaming revenues increased by more than 1,000%, climbing from \$194 million in 1960 to \$2,384 million in 1980. During the 1970's, despite periodic recessions, gross gaming revenues increased at an average annual rate of 15.9%. In 1974, despite the Arab oil embargo, rapid inflation and a severe recession, Nevada's gross gaming revenues rose by 19.2%, well above the long-term trend.³ One study reported that, between 1955 and 1977, there

¹ Nevada Gaming Abstract 1980, p. 2-1.

² Lee, supra, p. 7.

³ Eadington, supra.

was virtually no correlation between the rate of growth of gross gaming revenues and changes in the growth rate of the national economy.¹ These trends have given rise to the perception that the casino industry is recession-resistant and perhaps even recession-proof.

Daniel Lee, a financial analyst with the Drexel Burnham Lambert Company, disagrees with this assessment. He feels that inflation and underlying growth patterns stemming from changing moral values, improved transportation and increased leisure time have tended to mask the relationship between the performance of the Nevada casino industry and changes in the national economy. Based on a comparison of real growth rates of the Gross National Product and Nevada casino revenues, Mr. Lee has concluded that they are highly correlated. In fact, he believes that casino revenues may be even more susceptible to economic slowdowns than is the remainder of the economy. Moreover, he suggests that "future growth in New Jersey and other new jurisdictions may continue to cause casino companies to appear 'recession-proof.' However, as the industry becomes larger, and particularly in Nevada where the underlying growth may already be slowing, casino companies...are going to become increasingly vulnerable to national economic cycles."²

¹ Thomas F. Cargill and William R. Eadington, "Nevada's Gaming Revenues: Time Characteristics and Forecasting," Management Science, August 1978, pp. 1221-1230.

² Lee, supra, p. 42.

CHAPTER IV. ECONOMIC IMPLICATIONS OF LEGALIZING CASINO
GAMBLING IN MASSACHUSETTS

Introduction

The employment, tax revenues and economic development consequences of legalizing casino gambling in the Commonwealth will be determined by the interaction of the demand for and supply of casino gaming.

The demand for casino gambling can be expressed as the potential gross casino win, which is the total amount bet less the amount paid out as winnings. The total amount bet is called the handle and is a function of the total number of players and the average amount bet per player. The statistical advantage of the house determines the take-out rate which, in turn, determines the percentage of the handle which is retained by the house. The higher the take-out rate, the greater the portion of the total amount ventured retained by the house.

For example, slot machines are set to pay out in winnings an amount less than they take in. If the take-out rate is 20%, the machine will hold back \$2 out of every \$10 it takes in. Neither skill nor luck can alter this mechanically-determined fact. In contrast, casino games such as blackjack and craps offer a variety of odds, depending on the skill of the player. However, since the odds on all bets are at least slightly in the house's favor, some portion of the amount ventured will eventually become part of the house win. What portion of the initial stake is ultimately lost to the casino is largely a function of how long the player gambles. In other words, if players keep gambling as long as their money lasts, the take-out rate will be 100% of their initial stake regardless of the odds of the game. But, of course, most gamblers do not play until their entire stake is exhausted. In general, they play only until they reach what they consider to be their maximum allowable loss. Studies of casino gambler behavior indicate that the house will win approximately 15% of the initial stake.

This does not mean that each player who wagers \$100 on a game with a take-out rate of 15% will leave the casino with \$85. Some players will walk away as winners, others will lose far more than \$15. But, in the long run, the casino will retain 15% of the handle as the house win. In effect, the casino acts as an intermediary among the players; the take-out rate is the commission it charges for providing this service.¹ Expressed another way, the take-out rate determines the price of gambling to the player. Thus, the demand for casino gambling (as measured by the potential gross casino win) is the product of two factors. The first is the market area population's participation rate, which determines the handle. The second is the statistical advantage of the house, which determines the take-out rate.

The supply of casino gambling (i.e., the number, size and location of casino facilities) will determine the extent to which this potential demand is tapped. Realizing the total potential market requires that the supply of gambling facilities be sufficient to enable all who desire to gamble to do so. Absent statutory and regulatory restrictions, the number, size and location of casinos would be limited only by the attainment of market saturation. This is the approach to legalization which has been adopted in Nevada. The approach to casino development being considered in Massachusetts is much more restrictive, placing strict limitations on the number and location of casinos.

The current legislative proposals calling for the legalization of casino gambling which have generated the most support would permit the towns of Hull and Adams to approve by local referendum the operation of a single casino-hotel within their respective jurisdictions. A five-year moratorium would be imposed on further casino development. When the moratorium expired, no additional casinos would be permitted within a 50-mile radius of the Adams and Hull facilities. Thus, if enacted, and barring any subsequent amendments, these proposals would prohibit the

¹ Daniel B. Suits, "Economic Background for Gambling Policy," Journal of Social Issues, Vol. 35, No. 3, 1979, p. 46.

number of casinos in the Commonwealth from exceeding two for a period of five years. Subsequently, the number and location of casinos would be limited only by the requirements that they be at least 50 miles from the Adams and Hull operations and receive prior approval by local referendum. Given these constraints, future casino sites would be limited generally to the Cape Cod area and the central section of the state. The economic ramifications of this approach to casino development are discussed in appropriate sections of the following text.¹

The Demand for Casino Gambling

It is very difficult to predict how the Massachusetts population will respond to easy access to casino gambling. Much depends upon policies adopted to promote or discourage public participation. For example, dress codes, limited hours of operation, restricting casinos to remote locations, high minimum bet requirements and other policies could be used to discourage participation. At the other extreme, aggressive marketing, 24-hour operations, low minimum bet requirements and locating casinos in densely populated areas would likely stimulate demand. Ignoring these considerations for the moment, the first step in projecting the potential demand for casino gambling is to identify the principal determinants of gambling behavior.

Unfortunately, despite a considerable body of research by psychologists, sociologists and economists, the basic motivation for gambling remains a matter of speculation. Fortunately, two surveys conducted for the Commission on the Review of the National Policy Towards Gambling generated comprehensive and fairly detailed data on American gambling behavior, in general, and casino gambling, in particular.

¹ A detailed discussion of all of the casino gambling legalization measures currently before the General Court is included in Chapter VII.

The University of Michigan National Survey¹

Methodology. In the Summer of 1975, the Survey Research Center (SRC) of the University of Michigan conducted two surveys as part of its work for the Commission on the Review of the National Policy Towards Gambling. The first of the surveys was a national probability sample of 1,736 respondents. The second survey was confined to 296 respondents from Washoe, Clark and Carson Counties, Nevada. The purpose of the surveys was to determine measures of the American public's gambling behavior, including what games they bet on, how often they bet and how much money they wagered.²

Participation. The national survey confirmed that gambling is a popular and widespread pastime of the American public. In 1974, according to estimates projected from the survey results, more than 61% of all adult Americans placed some kind of bet for money. While approximately 13% of those who bet confined their gambling exclusively to wagers with friends and co-workers, the rest, some 69 million persons, wagered on average \$387 in commercial gambling. This included eight legally available games (horse races, casinos, bingo, state lotteries, dog races, jai alai, off-track betting in New York and a daily numbers game in New Jersey) and four illegal forms (numbers, sports cards and betting on horses or sports with a bookie).

Although there were statistically significant variations in participation rates among major demographic subgroups, the majority of persons in all but six subgroups reported betting. Participation levels below 50% occurred among (a) people

¹ Commission on the Review of the National Policy Towards Gambling, Gambling In America, Appendix 2, Survey of American Gambling Attitudes and Behavior, 1975, pp. 1-454.

² Although the subject of this report is casino gambling, the SRC surveys' findings concerning other forms of gambling are of interest and merit inclusion. Public policy is made by choosing between alternatives. When the subject is gambling policy, the choice is not only between whether a certain form of gambling should be permitted or prohibited but it must also take into consideration what mix of legalized gambling opportunities best serves the public interest. Many of the arguments both for and against the legalization of casino gambling can be applied with equal force to other forms of gambling. Thus, it is important to consider how the policy adopted towards one form of gambling reinforces or contradicts decisions regarding other varieties.

over 65, (b) people with incomes under \$5,000, (c) the widowed, (d) those that did not graduate from high school, (e) members of Bible-oriented fundamental sects and (f) Southerners.

Income Incidence of Betting. The survey found that betting was related to income in two ways. In the first place, the proportion of people who gambled tended to rise with income. Whereas 61% of the adult population gambled on something in 1974, only 24% had incomes under \$5,000, compared with almost 75% with incomes over \$15,000. The general tendency for participation to rise with income held for all types of gambling.

The second way gambling behavior was related to income was in the amount wagered. In contrast to participation rates, only among patrons of "sports books" did the size of the average bet increase uniformly with income. For some games, the amount wagered per bettor bore a "U-shaped" relationship to income, with the highest average wagers being placed by persons in the very highest and very lowest income brackets and the smaller bets being placed by individuals in the middle income ranges. This pattern existed among participants in off-track-betting and persons who bet illegally on horse races with bookies. Betting at casinos also followed the "U-shaped" pattern, with bettors in the over \$30,000 income bracket reporting the highest average annual volume of bets (\$1,293 in 1974), while the second highest average (\$595) was reported by bettors with incomes under \$5,000. The lowest average (\$125) was found in the \$10,000-\$15,000 income bracket.

Different betting patterns were found for other types of gambling. For example, among those who bet at the track, annual bets by middle income participants averaged higher than those of persons at the ends of the income scale. Data for those who bet on sports cards, numbers and lotteries showed a tendency for the amount bet to decline with income.

Despite the differences in betting patterns among the various types of gambling, when all types of betting are considered, there was a strong tendency for average per capita betting to rise with income. For example, among persons with incomes under \$5,000, total betting amounted to less than \$165 per capita. This rose to over \$435 per capita among people with incomes greater than \$30,000.

Betting as a Percent of Income. More important than the relationship between the dollar amount bet and income is that between income and the proportion of income wagered. That is, whether the percentage of income bet rises or falls as income increases. It is this relationship which determines the distribution of gambling expenditures across income groups. According to estimates based on the SRC survey, Americans ventured 1.1% of family income on gambling in 1974. However, wagering constituted a much higher proportion of low incomes than it did of higher incomes. For example, taking all kinds of betting together, the percent of income bet by people with incomes under \$5,000 per year was more than twice as high as among those with incomes over \$30,000.

The relationship between income and betting participation is even more striking when take-out rates are considered. As was explained earlier, the cost of gambling to the participant is not the amount ventured, but the amount taken out by the operators of the game. The relationship between family income and the amount spent (i.e., lost) on gambling, by game, is shown in Table 4.

As the table indicates, there is a strong trend for the total percent of income lost to gambling to decline as income rises. Whereas the average net expenditure for gambling across all income groups was 0.25% of income, the lowest income group spent 0.62% of their income on gambling. In contrast, persons in the two highest income brackets spent a much lower percentage of their income on gambling than did any of the other income groups. The relationship between gambling and income revealed by the table confirms that gambling is a regressive expenditure.

Table 4. Percentage of Income Lost on Gambling by Type of Game

	Percent of Income						Total
	<u>Under</u> <u>\$5,000</u>	<u>\$5,000-</u> <u>\$10,000</u>	<u>\$10,000-</u> <u>\$15,000</u>	<u>\$15,000-</u> <u>\$20,000</u>	<u>\$20,000-</u> <u>\$30,000</u>	<u>\$30,000</u> <u>and Over</u>	
Horses - track							
Bet	0.63	0.61	0.35	0.57	0.25	0.22	0.50
Taken out	0.105	0.101	0.059	0.094	0.41	0.037	0.083
Horses - OTB							
Bet		3.03	0.41	0.87		1.15	1.15
Taken out		0.636	0.085	0.182		0.241	0.241
Legal casinos							
Bet	0.98	0.20	0.06	0.24	0.13	0.67	0.27
Taken out	0.148	0.031	0.012	0.036	0.019	0.100	0.040
Bingo							
Bet	0.49	0.64	0.18	0.07	0.06	0.04	0.08
Taken out	0.162	0.002	0.061	0.022	0.019	0.014	0.027
Lotteries							
Bet	0.30	0.23	0.13	0.06	0.06	0.02	0.08
Taken out	0.16	0.12	0.07	0.04	0.03	0.01	0.05
Sports books							
Bet		0.02	0.02		0.11		0.08
Taken out		0.001	0.001		0.005		0.003
Horse books							
Bet	0.09	0.24	0.07	0.03	0.05	0.05	0.06
Taken out	0.015	0.040	0.012	0.005	0.009	0.008	0.010
Numbers							
Bet	0.02	0.19	0.09	0.04	0.02	0.01	0.05
Taken out	0.010	0.101	0.051	0.021	0.011	0.007	0.028
Sports cards							
Bet		0.011	0.04	0.01	0.002	0.003	0.009
Taken out		0.007	0.024	0.006	0.001	0.002	0.005
<u>Total</u>							
Bet	2.53	1.55	1.07	1.16	0.67	1.09	1.15
Taken out	0.62	0.42	0.29	0.23	0.14	0.13	0.25

Source: Commission on the Review of The National Policy Toward Gambling, Gambling in America, Appendix 2, Survey of American Gambling Attitudes and Behavior, 1976, p. 107.

Casino Gambling. Twenty-seven percent of the participants in the national survey reported having bet at a casino at some time in their lives. Almost 10% of the total sample said they bet at a casino in 1974. Reflecting the importance of proximity to casino gambling as a determinant of participation, more than 31% of the residents of Western states other than Nevada reported visiting a casino. The average amount bet by casino bettors in 1974 was \$448. Assuming a take-out rate of 15%, the average annual loss per casino bettor would be approximately \$67. This represents a loss of more than \$131 in 1982 dollars. In comparison, the average/^{annual}bet on horses in 1974 (legal and illegal) was \$590, while the average/^{annual}bet on lotteries, bingo and numbers was \$25, \$74 and \$273, respectively.

The survey found that higher income and education were strongly related to the incidence of casino gambling. For example, while only 4.1% of the survey respondents with incomes below \$5,000 reported betting at a casino in 1974, more than 14% of individuals with incomes of \$15,000 or more had done so. With respect to education, only 4.3% of those who had not graduated from high school bet at a casino, compared to 15.9% of college graduates. Casino bettors were much like the general population in terms of family characteristics, such as happiness of home life, understanding of spouse and number of marriages and children. Similarly, job characteristics reported by casino bettors matched the overall averages (i.e., mean number on job, mean years since a raise, mean hours worked, days missed, days late and whether the job measures up to the respondent's ideal). In terms of leisure time activities, casino bettors spent a lot less time than others on home improvements and gardening, watching television, taking part in church activities and "doing nothing." They did have a greater frequency of drinking alcoholic beverages and attending night clubs and large parties. On the other hand, casino patrons spent considerably more time participating in active sports, taking part in community

activities, going to movies and the theater, and reading books than the average person. In summary, casino patrons tend to be active, outwardly oriented people, rather than passive and home oriented.

Casino Trips and Casino Games. Eighty-four percent of the casino bettors surveyed in 1974 went to Nevada; another 30% patronized a legal casino outside the United States, while only 6% visited an illegal casino. (Multiple responses were allowed, thus the percentages exceed 100.) They made an average of 32 trips to casinos during their lifetimes and 2.5 trips during 1974, spending an average of nearly three days on each trip. Only 32% of the casino bettors indicated that the main purpose of their trip was to gamble.

Eighty-seven percent of casino bettors played slot machines and did so an average of three hours a day. Of these players, 19% claimed to have won an average of \$84, while 64% said they lost an average of \$50. Twenty percent of slot machine losers reported having lost more than they expected to. Forty-seven percent of casino gamblers played blackjack, 43% played keno, 37% played roulette and 29% played craps. Thirteen percent of table game losers lost more than they had anticipated.

The vast majority of casino bettors questioned viewed gambling as a recreational activity. Fully 81% said the reason they went to casinos was to have a good time. Only 43% responded that they gambled at casinos to make money. The most frequent reason for not gambling at casinos was their unavailability, cited by 48% of persons queried. Moral objections were raised by only 8% of nonbettors, while 12% cited the illegality of casinos as a deterrent.

The University of Michigan Nevada Survey

The gambling behavior of Nevada residents differed from that of the average American in four ways: (1) participation in legal gambling by Nevadans was 73% higher than the national average; (2) the average bettor in Nevada wagered almost

60% more; (3) the participation rate for illegal gambling was less than one-third the national average; and (4) gambling is much more regressively related to income in Nevada than in the United States as a whole.¹ In a sense, Nevada serves as a model for the effect widespread availability of legal gambling has on a state's population. (Participation in the Nevada survey was limited to the people who had grown up in Nevada or had moved there for the purposes of employment, education, health, retirement, military service and other reasons not directly related to the availability of gambling.)

Participation. In Nevada, 78% of the total sample (296 individuals) bet on something in 1974, compared to 61% of the national population. Further, the incidence of betting was higher for almost every demographic group. Based on the survey results, 72% of Nevadans played slot machines, 54% played keno, 34% played cards with friends (compared to 38% of the national sample), and 27% went to casinos (10% of the national sample). Other betting games which were more popular in Nevada than the rest of the nation included betting on professional football and baseball with friends, bingo, pool and jai alai. Betting on lottery tickets and at horse tracks were less popular in Nevada than in the nation as a whole, while no one in Nevada reported having played the numbers in 1974. The proportion of illegal bettors in Nevada was less than one-third the national average.

In general, monetary reasons for gambling play a much greater role in Nevada. While more than half of casino bettors said that they gambled to have a good time, two-thirds of them also responded that they played casino games to get rich or make money. Overall, Nevada bettors were much more likely to give money-related reasons for gambling for all games considered. This attitude, coupled with the magnitude of per capita betting, suggests that many Nevada residents view their gambling activity as an "investment" of sorts, or even as a secondary occupation.

¹ Maureen Kallick-Kaufman, "The Micro and Macro Dimensions of Gambling in the United States," Journal of Social Issues, Vol. 35, No. 3, 1979, p. 18.

Although there was a greater percentage of divorced and separated people in Nevada than in the nation as a whole, the rate was only slightly higher for bettors than for nonbettors. Similarly, though the average times married for all Nevadans is higher than the rest of the country, the difference between bettors and nonbettors was not significant. With respect to two other measures of family stability (expression of lack of understanding by spouse and perception of children having more problems than others), Nevada bettors and nonbettors were virtually identical.

Casinos and Slot Machines. Forty percent of Nevada residents had gambled at a casino at sometime during their life and 27% had done so in 1974. The comparable figures for the nation as a whole were 27% and 10%, respectively. Nevadans who patronized casinos in 1974 did so an average of 28 times and made an average annual wager of \$846 on casino table games. Assuming a take-out rate of 15%, the average annual loss per casino bettor was almost \$127, or a little more than \$4.50 per visit. However, only 47% of casino players said they lost money for the year. Nearly half of casino table game winners (27% of all players claimed to have won) reported winning \$150 or more. As for losers, 40% claimed to have lost under \$75, while another 40% of them lost \$150 or more. Twenty-nine percent of table game players claimed to have broken even. Nearly all casino gamblers played blackjack and it was the favorite game of 75% of all casino bettors. Less than 10% played roulette, craps or poker most often. The average length of time spent gambling per visit to a casino was an hour or less.

Slot machines are by far the most popular type of gambling and were played by 72% of the survey respondents in 1974. Persons who played slot machines did so on average 49 days and played for an hour or less at a time. As noted earlier, slot machines are not restricted to casinos. However, among all the places where slot machines could be played, the majority (67% of the total Nevada sample and 94% of slot machine players) played them in casinos. The next most frequent place was

stores: one-half of the Nevada sample and 70% of all slot machine players at some time in 1974 used slot machines in places such as grocery or department stores laundromats, restaurants or gas stations. Stores were also the second favorite place to play slot machines. Twenty-three percent of slot machine players played them most often at stores, compared to 69% at casinos.

Nevada residents, who bet on slot machines, ventured an average of \$377 in 1974. Assuming an average take-out rate of 25%, the average annual loss per slot machine player would be a little more than \$94. When asked about the net results of their playing, 15% of slot players said they won on balance, 56% reported losing, and 29% claimed to have broken even. Reported casino and slot machine wins and losses are shown in Table 5.

Table 5. Reported Casino and Slot Machine Wins and Losses in Nevada in 1974

	Percent	
	<u>Casino Tables</u>	<u>Slot Machines</u>
<u>Net results:</u>		
Won	24	15
Lost	47	56
Broke even	29	29
<u>Amounts won:</u>		
Under \$25	19	29
\$25-\$75	12	19
\$75-\$150	20	17
\$150-\$300	14	9
\$300 or more	35	26
<u>Amounts lost:</u>		
Under \$25	25	56
\$25-\$75	15	19
\$75-\$150	20	13
\$150-\$300	17	3
\$300 or more	23	9

Source: Commission on the Review of the National Policy Toward Gambling, Gambling in America, Appendix 2, Survey of American Gambling Attitudes and Behavior, 1976, p. 415

The Massachusetts Casino Market

The market for a Massachusetts casino industry will be comprised of residents of the Commonwealth and visitors from other states. However, this section of the report analyzes only the projected market for casino gambling by Massachusetts residents. The tourist gambling market is discussed in the following section. Both sections rely heavily on data from Nevada. Although in many cases it would be preferable to use information from Atlantic City, such data are not currently available.

Resident Gambling

There are two approaches to estimating the potential annual gross casino win which could be generated by the Massachusetts resident population.

The first approach is based on the percentage of personal income that Massachusetts residents could reasonably be expected to spend (i.e., lose) on casino gaming. Estimates of the percent of personal income that Nevadans spend on casino gambling range from 0.72% to 1.2%. According to the 1980 United States Census of Population, the Commonwealth had a total population of 5,737,039 and an average per capita income of \$7,459 (in 1979 dollars). Based on the Consumer Price Index, the equivalent figure for 1982 would be \$9,920. Assuming that the state's population has remained the same, total personal income in 1982 would be \$56,911,000,000. If Massachusetts residents who patronize casinos allocate the same share of personal income to casino gaming as do their Nevada counterparts, they would generate an annual gross casino win of between \$409,759,200 and \$682,932,000.

An alternative approach to estimating the potential annual gross casino win is to multiply the average loss per gambler by the number of gamblers. The SRC survey of Nevada residents indicated that 27% of the adult population gambled at a casino in 1974. However, the survey probably understates the actual population participation rate, since individuals who moved to Nevada because of the availability of gambling were excluded from the survey. The SRC national survey found that 31% of

residents of Western states other than Nevada had gambled at a casino in 1974. It is highly unlikely that the Nevada population's participation rate would be lower than that of the population in the surrounding states. It seems reasonable to assume, therefore, that as high as 30% of the Massachusetts adult population (4,016,280) would gamble at casinos if they were readily accessible. Applied to the adult population, a 30% participation rate indicates that 1,204,884 Massachusetts residents are potential casino gamblers.

In 1974, the average annual wager by Nevada residents who played casino table games was \$846. Based on an average take-out rate of 15%, the average annual loss per table game player would have been \$127. In 1982 dollars, the average amount bet would be \$1,656 and the average amount lost would be \$249. The average annual wager on slot machines by Nevadan slot players in 1974 was \$377. Assuming an average take-out rate of 25%, the average loss per player would have been a little more than \$94. Because slot machines are ubiquitous in Nevada and are played by 72% of the adult population, this is a poor estimator for the Massachusetts situation. Accordingly, it is assumed that Massachusetts residents who play slot machines will lose only one-half of the Nevada average. In 1982 dollars, a slot machine loss of one-half the Nevada average would be almost \$92, indicating an average annual wager of \$368 (based on a take-out rate of 25%). Based on these estimates, the average annual loss per Massachusetts casino player will be \$341 (i.e., an average annual table game loss of \$249 and an average annual slot machine loss of \$92). Of course, this is only an average and some individuals will lose far more while others will lose lesser amounts. Indeed, some people will end the year as net winners. Applied to the estimated number of Massachusetts inhabitants who would gamble at casinos, an average annual loss of \$341 would generate an annual gross casino win of \$410,860,000. As a percentage of personal income, a gross win of this magnitude would equal slightly more than 0.72%. Coincidentally, but significantly, this is virtually the same as

the lower estimate of the potential annual gross casino win calculated by the personal income approach.

Further evidence as to the reasonableness of this estimate is provided by a comparison with casino gambling in Atlantic City and Las Vegas. In 1982, 23,055,000 persons visited Atlantic City. The total gross casino win that year was \$1,493,164,091, indicating an average gambling loss per visitor of approximately \$65.

In 1980, approximately 11.9 million persons visited Las Vegas. Based on room and occupancy levels, 6.6 million of these visitors stayed an average of 3.8 nights, representing approximately 25 million visitor nights. These figures indicate that total visitation to Las Vegas in 1980 was equal to approximately 30 million visitor nights. The Las Vegas casino industry gross win in 1980 was approximately \$1.6 billion, indicating an average loss of more than \$53 per visitor night. Updated to 1982 dollars, the equivalent figure would be \$62.²

Assuming that Massachusetts casino players experienced an average annual loss of \$341 and visited a casino six times per year, their average loss per visit would be almost \$57 (\$41.50 on table games and approximately \$15 on slot machines). The assumption regarding the number of visits is arbitrary, but seems reasonable. The SRC survey of Nevadans revealed that persons who gambled at casinos did so an average of 28 times per year. However, as noted by Reuter and Ruth, "there is little entertainment in Nevada outside of the casinos; there are few major league sports events; and attendance at a good restaurant, or at one of the big shows...requires the resident to enter a casino. Indeed, even shopping will take the Nevadan to the casino for high-fashion clothes."³ In contrast, Massachusetts residents have a much

¹ Legislative Research Bureau calculation based on Atlantic City Casino Hotel Association, Fact Sheets.

² Legislative Research Bureau calculation based on 1980 Nevada Gaming Abstract, Nevada Gaming Control Board, December 1980.

³ Peter Reuter and Heather L. Ruth, Casino Gaming for New York State, August 9, 1979, p. 22.

broader variety of entertainment options available to them. They would not, therefore, be expected to patronize casinos as frequently as the Nevada resident.

By the same reasoning, it may be improper to assume that Massachusetts residents will spend as high a percentage of personal income on casino gambling as is spent in Nevada. In projecting the percent of personal income likely to be captured from the adult population residing within 150 miles of New York City, Peat, Marwick, Mitchell and Co. used an estimate of 0.6%.¹ Based on this estimate, the annual win for a fully developed New York City casino industry would have been \$740,000,000 in 1980. This indicates an average annual loss per casino player of approximately \$135, or less than 40% of the average annual loss imputed to the Massachusetts casino player in the analysis above. Applied to the estimated number of Massachusetts inhabitants identified as potential casino gamblers, an average annual loss figure of \$158 (the \$135 figure updated to 1982 dollars) produces an estimated gross casino win of only \$190,370,000, or approximately 0.3% of personal income. This appears to be significantly too low. For example, the 1982 Atlantic City gross casino win of approximately \$1.5 billion represents slightly more than 0.4% of personal income of the population within a 200-mile radius. Furthermore, even if casinos were restricted solely to the towns of Adams and Hull, the vast majority of Massachusetts residents would be within 50 miles of a casino. Every source reviewed by the Bureau during the preparation of this report assumed that a casino would capture at least 0.6% of personal income within a 50-mile radius.

After reviewing all the evidence, the Bureau believes that it is reasonable to assume that gambling by Massachusetts residents could generate an annual gross casino win of approximately \$400 million, or roughly 0.7% of personal income. This would require, however, that the supply of casino floor space be sufficient to accommodate the volume of gambling necessary to generate a gross win of this magnitude.

¹ Peat, Marwick, Mitchell and Co., Economic Impact of Legalized Casino Gambling in New York State and Its Impact on Existing Forms of Legalized Gambling, February 1981, p. III-24.

The 1983 legislative proposals providing for the legalization of casino gambling range from restricting development to a single casino in the Town of Adams,¹ to permitting a single facility to be located in any community which gives its approval by local referendum. Under the latter approach, it would be possible for the supply of casino gambling (i.e., the number, site and location of casino facilities) to expand to the point of market saturation. It would, under such circumstances, be possible to tap the entire demand for casino gaming by Massachusetts residents. At the other extreme, Senate, No. 518 of 1983, would limit development to one casino attached to a 400-room hotel in each of the towns of Adams and Hull. Each facility could contain up to 60,000 square feet of casino floor space, providing the attached hotel contained at least 800 hotel rooms. A five-year moratorium would be imposed on the opening of additional casinos, and, thereafter, no other casino could be situated within a 50-mile radius of the Adams or Hull facilities. MGM Grand Hotels, Inc., the only company which has expressed interest in operating casinos in the Commonwealth, has proposed building casinos with approximately 40,000 square feet of gaming space. Based on the above, at least 80,000 but no more than 120,000 square feet of casino floor space will be available for a period of five years following the opening of the Adams and Hull facilities.

In 1979, the Resorts International Atlantic City casino generated a gross casino win of approximately \$4,153 per square foot. This was almost twice the gaming revenue per square foot generated by Nevada casinos of similar size. Because the casino was operating at 100% of capacity most of the time, the Resorts experience probably represents an upper bound on the amount of gross casino win which can be generated per square foot of gaming space. At a rate of \$4,153 per square foot, congestion will be a serious problem and waiting times of several hours for a place at

¹ This proposal, S. 485, would violate Amendment Article LXXXIX, Section 8 of the Massachusetts Constitution which prohibits amendments to the General Laws, which would apply to a class of fewer than two cities or towns. It is not, therefore, given any further consideration below.

a table game or a vacant slot machine will be commonplace. Based on a gross casino win of \$5,523 per square foot (the \$4,153 figure updated to 1982 dollars), the maximum gross casino win which could be generated by 80,000 square feet of casino floor space before congestion levels become intolerable would be \$441,840,000. A gross win of this magnitude would be equivalent to approximately 0.78% of personal income, indicating that two 40,000 square foot casinos would be sufficient to capture the entire estimated gross casino win which could be generated by Massachusetts residents.

In 1982, the Atlantic City industry-wide average annual gross casino win per square foot of gaming space was approximately \$3,500. This is probably a more reasonable standard for estimating the amount of casino floor space required to avoid the overcrowding which occurred at the Resorts International Casino. Using this measure, almost 115,000 square feet of casino floor space would be required to accommodate a volume of gambling sufficient to generate an annual gross casino win of approximately \$400,000,000. This indicates that the Massachusetts resident market for casino gambling could support as many as three 40,000 square foot casinos. Alternatively, two casinos with 60,000 square feet of gaming space could tap the entire estimated resident casino gambling loss.

Tourist Gambling

Perhaps the most important lesson to be learned from the Atlantic City experience is that Nevada's success in drawing on a national market is the exception rather than the rule. The Atlantic City market consists primarily of day-trippers who arrive by car or bus and seldom stay overnight. A license plate survey conducted in the Summer of 1980 disclosed that the majority of out-of-state visitors to Atlantic City were from the New York City area, followed closely by Philadelphia. Other areas that registered significant visitor volume included Quebec, Maryland, Ohio, Delaware, Florida, Virginia, Connecticut and Massachusetts.¹ Because of the

¹ Frank J. Pendergast, "A.C. Tops Vegas In '80 Visitors," The Atlantic City Press, January 7, 1980, p. 22.

regional nature of its market, the New Jersey casino industry derives a much higher proportion of its gross gaming revenues from the state resident population than is the case in Nevada. This has important implications for other states considering the legalization of casino gambling as a spur to tourism, a source of tax revenues or as a catalyst for economic development.

To serve the economic objectives of legalization, a casino in the Bay State must attract new tourist dollars into the state or capture expenditures by Massachusetts residents which would otherwise have been made in other states. The latter category consists primarily of Massachusetts residents' gambling and related expenditures in Atlantic City, Nevada and other jurisdictions where casino gambling is available. Although internalizing the resident population's gaming expenditures will represent a net addition to the state economy, it will not be sufficient to stimulate sustained economic growth and development. Similarly, it will not represent a significant new source of tax revenue. From the casino operator's perspective, the division of casino patrons between resident and nonresident gamblers is inconsequential. His only concern is that the market area population is sufficient to generate a high enough gross win to provide an acceptable rate of return on investment. For the public official, concerned with encouraging economic development and providing employment, the casino's potential for drawing "new" tourist dollars into the state economy is of great consequence. If the casino's primary market is the state's own citizens, it will redistribute employment and income, rather than complement other sectors of the economy.

As a rough rule of thumb, a casino's primary market is identified as the adult population residing within a 150-mile radius; approximately 2.5 hours driving time. Visitors from this area will comprise the casino's day trip market. The volume of overnight visitation will depend upon the casino's ability to attract

persons from more distant origins. For several reasons, a single casino-hotel will have limited appeal to the typical overnight tourist gambler.

In the first place, a lone casino will not provide the opportunity to change casinos when luck or inclination so indicates. As was discussed in the previous chapter, the clustering of casinos in Nevada has enhanced the state's appeal as a tourist and convention destination. This suggests that there is a correlation between the number of casinos and related entertainment opportunities in an area and the range of its market area. Moreover, a single casino will not create the ambience, glamour and excitement that results from the clustering of several casinos in an area. Las Vegas is often touted as the entertainment capital of the world; by comparison, a community with a single casino will be more akin to a local amusement park. Further, given the substantial demand for casino gambling, a single casino will be operating at 100% of capacity much of the time. The resulting congestion, both inside and outside the facility, will detract from its appeal and discourage persons who must incur substantial travel time and out-of-pocket expenses to arrive at the casino.

Despite the problems outlined above, a single casino-hotel may be capable of attracting a large number of tourist gamblers. To do so, however, it would have to be located where a substantial portion of its market area extended into surrounding states. However, neighboring states are likely to view the establishment of casinos in close proximity to the Massachusetts border as a "beggar-thy-neighbor" approach to economic development and taxation. This might set in motion a band-wagon effect as other states, alarmed by the outflow of funds to Massachusetts, authorize competing casinos. This motivation has already played a part in campaigns to legalize casino gambling in New York. Proponents of legalization in New York often emphasize that a significant portion of the Atlantic City market consists of New

Yorkers. According to one estimate, New Yorkers spent at least \$65 million on gambling in Atlantic City in 1979.¹

If casinos proliferated across New England, or if even a limited number of casinos were authorized in the region, the Massachusetts casino industry would become increasingly dependent upon local patronage. Faced with the prospect of a decline in tax revenues and employment, the state would be tempted to relax restrictions designed to discourage gambling by the resident population. The end result would be that the casino industry would compete with, rather than complement, other sectors of the state economy. Similarly, the tax revenues raised from the industry will come from the local populace.

As noted above, a casino's primary market is comprised of the adult population within a 150-mile radius. For analytical purposes, the market area is subdivided into three concentric zones of 50-mile radii (i.e., 0-50, 50-100 and 100-150). The purpose of subdividing the market is to introduce the effect of distance from the casino on each market segment population's propensity to visit the facility. The demand for casino gambling, like that for any other consumer good or service, is influenced by the purchase price. The price of gambling is determined by the take-out rate. Ignoring differences in gambling skills, all players face the same price for a given volume and type of gambling. However, the total cost of gambling at a casino includes not only the expected loss, but also travel costs. Because the time and out-of-pocket expenses of visiting a casino will increase with distance, the average patron's demand for casino gambling will be inversely related to the distance he/she must travel to do so. Conversely, an individual's propensity to gamble will be highly correlated with its availability. Using this approach, it is possible

¹ Reuter and Ruth, supra, p. 28.

to develop a demand schedule for casino gambling which relates each market segment population's participation rate (expressed, for example, as the percentage of personal income spent on casino gambling) to its distance from the casino.

Consultants to the New York State Casino Gambling Study Panel concluded that there is a rather sharp fall-off in gaming intensity (i.e., the percentage of personal income spent) with distance. They noted, for example, that whereas Nevadans spend an estimated 1.2% of their income on casino gaming, residents of Los Angeles (approximately 250 miles from Las Vegas) spent only 0.18% of their income on gambling in Las Vegas. Accordingly, they estimated the percentage of personal income spent on casino gambling would decline from 0.9% in the 0-50 mile zone to 0.45% in the 50-100 mile zone and decline still further to 0.35% in the 100-150 mile zone.¹

The Bureau has employed a much cruder, and thus less accurate, approach to estimating the potential gross casino win which could be generated by nonresident gambling at Massachusetts casinos. If casinos were authorized in Adams, Hull or at other locations within the Commonwealth, their market area would extend throughout most of Maine, New Hampshire, Vermont, Connecticut, Rhode Island and into much of New York. The market area adult population would be at least eight million persons. Assuming an average per capita income of \$8,000, total personal income in the market area would be \$64,000,000,000. Applying a personal income capture rate of only 0.3%, the average annual gross casino win from nonstate residents would be \$192,000,000. This is an extremely conservative estimate because both the capture rate and the per capita income figures are very low. Casinos located in the Northwestern part of the state would undoubtedly capture a much higher percentage of the personal income of residents of New Hampshire, Vermont and the Albany area of New York. By the same token, casinos located in the Southwestern corner of the state would draw heavily from Southern New York, all of Connecticut and most of Rhode Island. Indeed, a nonresident gross casino win of such a low magnitude would probably occur only if casinos were restricted to the Metropolitan Boston area or if other New England states legaliz

¹ Reuter and Ruth, supra., p. 34.

casino gambling. In fact, it is not overly optimistic to expect that the nonresident gross casino win would be as high as that generated by Massachusetts residents.

Based on the analysis above, the Bureau believes that a fully-developed Massachusetts casino industry could generate an annual gross win of between \$600,000,000 and \$800,000,000. Assuming a gross casino win per square foot of \$3,500, the estimated market for casino gambling could support between 4.28 and 5.7 casinos (40,000 sq.ft. each) with annual gross wins of \$140,000,000 each.

Casino-Induced Employment

The casino industry's impact on employment, which will be both positive and negative, will occur both directly and indirectly. The total change in employment will be the sum of four components: (1) the temporary increase in construction employment while the casino-hotels are being built, (2) the jobs created in the casino-hotels, (3) the indirect employment gains from the establishment of new business and the expansion of existing ones to supply goods and services to the casino facility, its workforce and its patrons and (4) the loss of jobs resulting from the diversion of spending from other sectors of the economy.

Construction Employment

MGM Grand Hotels, Inc. estimates that the construction of a 40,000 square foot casino attached to a 400-room hotel will employ 200-300 workers from the construction trades for a period of 18-24 months. A considerable, but unspecified, number of subcontractors in the fields of carpentry, plumbing and heating, the mechanical and electrical crafts, and site work would also be employed on the project. The Massachusetts AFL-CIO, an enthusiastic supporter of the casino gambling proposals, concurs with the MGM estimates. The Bureau has no reason to dispute these projections and has used them to estimate construction employment. On this basis, it is estimated that each 40,000 square foot casino attached to a 400-room hotel will generate 700 person-years of construction employment (i.e., 250 construction workers plus 100 contract employees for a period of 24 months). Applied to the number of casino-hotels of this scale which could be supported by the estimated market for a Massachusetts casino industry (i.e., between 4.28 and 5.7), the legalization of casino gambling would provide between approximately 3,000 and almost 4,000 person-

years of construction employment. At an average annual wage of \$25,000, this translates into between \$75,000,000 and \$100,000,000 in total construction wages.

Casino-Hotel Employment

Direct employment in the casino-hotels can be estimated by comparison with the Atlantic City casino industry. Two ratios are used to project the size of the casino industry workforce. The first ratio is the number of employees (both casino and hotel) per \$1 million of gaming revenues. The second is the number of employees per 1,000 square feet of casino floor space. Table 6 presents these ratios for the six Atlantic City casino-hotels which were open during the 12 months of 1981.

The table shows that there was considerable variation among the casino-hotels with respect to both ratios. For example, the number of employees per \$1 million of gross casino win ranges from a low of 16.8 at Caesars to a high of 26.5 at the Sands. The number of employees per 1,000 square feet of casino floor space varies from a high of 75.5 at the Sands to a low of 58.1 at Bally's. Both ratios demonstrate that casino-hotels are able to make much more efficient use of their employees as the gross casino win increases. For example, the Caesars 1981 gross casino win was \$51.4 million higher than at Harrah's, yet it employed only 66 more workers. The difference in the size of their casinos (48,360 sq.ft. at Caesars compared to 44,090 at Harrah's) explains less than \$14,000,000 of the disparity in gross casino wins.¹ Similarly, the number of employees per 1,000 square feet of casino floor space tends to decline - although not in all cases - as the size of the casino increases. Bally's, for example, with almost twice the casino floor space and virtually the same number of hotel rooms, employed approximately 17 fewer employees per 1,000 square feet of casino floor space than did the Sands. Although such factors as management practices and efficiency, the mix of table games and slot machines, and differences in clientele will all affect the size of the casino hotel workforce, it is clear that increases in the gross casino win beyond the \$100 million level do not stimulate corresponding increases in employment.

¹ Harrah's annual gross casino win per square foot of approximately \$3,210 times the 4,270 square foot difference in casino floor space.

Table 6. Selected Characteristics of Atlantic City Casino Hotels in 1981

<u>Category</u>	<u>Sands</u>	<u>Harrah's</u>	<u>Golden Nugget</u>	<u>Resorts</u>	<u>Bally's</u>	<u>Caesars</u>
1981 gross casino win	\$91,614,221	\$141,518,115	\$156,887,313	\$186,164,730	\$187,230,826	\$192,936,632
Casino size (square foot)	32,200	44,090	40,805	60,000	60,000	48,360
Hotel rooms	504	506	504	727	512	509
Number of employees	2,430	3,185	2,942	3,858	3,486	3,251
Employees per \$1 million of casino win	26.5	22.5	18.7	20.7	18.6	16.8
Employees per 1,000 square feet of casino floor space	75.5	72.3	72.1	64.3	58.1	67.3
Annual gross win per square foot of casino floor space	\$2,845	\$3,210	\$3,845	\$3,103	\$3,121	\$3,990

Source: Bureau calculations based on Atlantic City Casino Hotel Association, Fact Sheets.

This relationship between the gross casino win and the number of employees indicates that the goal of legalizing casino gambling as a source of employment would be best served by authorizing several casinos. For example, based on Harrah's employee per \$1 million of gross casino win ratio of 22.4, a gross win of \$200 million could support a workforce of almost 4,500 persons. On the other hand, based on the Caesars employee per \$1 million of casino win ratio of 16.9, the same gross revenue could be generated by a single casino hotel with a workforce of approximately 3,400 employees. Conversely, the legalization of casino gambling as a source of tax revenues would favor limiting the number of casinos to the minimum necessary to tap the potential market. This approach would reduce the operating costs that would need to be covered by the gross win, thereby enabling the state to impose a much higher tax levy. In effect, the state would grant a limited number of operators a protected monopoly; in return, it would extract a large share of the gross casino win as tax revenue.

In estimating the potential size of the Massachusetts casino industry workforce, the Bureau has used very conservative indices. The number of employees per \$1 million of gross casino win is estimated by using a factor of only 16. This is significantly lower than the Atlantic City industry average of 20.6 employees per \$1 million of gross casino win. In determining the number of employees per 1,000 square feet of casino floor space, a factor of only 55 is applied. Once again, this is significantly lower than the Atlantic City industry average ratio of 68.2. Based on the high-range estimated gross win of \$800 million, the industry workforce would be 12,800 persons. Based on a 55 employees per 1,000 square feet of casino floor space ratio, the industry workforce would range from 9,416 (4.28 casinos with 40,000 sq. ft. of floor space) to 12,540 (5.7 casinos with 40,000 sq. ft. of floor space). Using either approach, the number of workers per casino-hotel would be approximately 2,200.

Secondary Employment

In addition to its direct contribution to employment, the casino industry will have an indirect, or multiplier, effect on employment in the site community, the surrounding region and the state as a whole. These secondary employment impacts will be both positive and negative. The positive impacts will result from (1) casino industry purchases of goods and services from other businesses, (2) nongambling expenditures by casino patrons outside the casino facility and (3) the circulation and recirculation of the casino industry payroll throughout other sectors of the state economy. The negative secondary employment impacts will occur because a portion of the casino industry's revenues, both gaming and nongaming, will represent a diversion of spending from other industries. For example, the Massachusetts racing industry is adamantly opposed to the legalization of casino gambling because it recognizes that the casino industry's gross win will be made up in part of dollars that formerly would have been lost at the track. Similarly, numerous other industries will be faced with a formidable new competitor for the public's discretionary income.

The total change in employment which will result from the introduction of a new business or industry can be calculated by using multipliers. Once the proper multiplier is estimated, the total change in employment can be easily calculated; the difficult part is determining the proper multiplier. A 1970 study of the Las Vegas casino industry estimated that the ratio of secondary to primary employment (i.e., the employment multiplier) was 2.05.¹ That is, for each primary casino-hotel employee, an additional 2.05 jobs were generated outside the casino industry. For reasons discussed below, an employment multiplier of 2.05 would probably overstate the number of secondary jobs generated per Massachusetts casino-hotel employee.

In the first place, simple employment multipliers tend to overstate the importance of the basic sector's contribution (in this case, the casino industry's) to

¹ Robert Willard, The Quantitative Significance of the Gaming Industry in the Greater Las Vegas Area, May 1970.

economic development. The multiplier does not, for example, account for employment within the basic sector which is devoted to producing goods and services for local consumption. With respect to the Nevada casino industry, this shortcoming is not significant. As was discussed earlier, casino gambling losses by the indigenous population amounts to less than 5% of the Las Vegas casino industry gross win. Since almost all of the industry gross win is contributed by residents of other states, the industry is almost totally export-oriented. In contrast, a much higher percentage of the Massachusetts casino industry's gross win will come from gambling losses by residents of the Commonwealth.

Based on the market estimates made above, between 50% and 75% of the industry gross win will be attributable to losses by Massachusetts residents. The share of the resident population's casino gambling losses which would otherwise have been spent outside the state will represent a net addition to the gross state product. Consequently, jobs generated by that portion of the gross win will constitute a net addition to employment. However, a much greater share of the resident population's gambling losses will represent a diversion of spending from other forms of entertainment in general, and gambling in particular. Many of the jobs generated by casino industry revenues from this source will be offset by corresponding job losses in those industries. Indeed, if legalized casino gambling diverts revenues from businesses which generate a greater number of jobs per dollar taken in, the net change in employment could be negative.

A second reason why an employment multiplier of 2.05 is inappropriate in Massachusetts is that there are substantial differences between the Las Vegas non-gaming business community and businesses in areas of the Commonwealth where casino gambling might be legalized. Las Vegas is built on casino gambling. The gaming industry has served as the core to which other businesses could attach themselves and grow. These businesses are directly linked to the industry and have prospered by

appealing to visitors who are attracted by the availability of gambling. As a result, growth in the gaming industry produces similar benefits for nongaming industries. In Massachusetts, on the other hand, the tourist industry has developed to serve a different clientele than will be attracted by casino gambling. What this implies can be surmised from developments in Atlantic City. With few exceptions, the Atlantic City business community has not prospered, and, in many cases, has been harmed by the city's transformation from a defunct resort into a booming gambling mecca. Despite the influx of millions of visitors and the new dollars they bring, businesses up and down the Boardwalk have closed their doors. Although there are many reasons why this has occurred, a very important one was the failure of owners and operators to adapt to the dramatic change in their primary market. They persevered in marketing methods which, although suited to a deteriorating resort economy, were rendered obsolete by the emergent casino industry. They have become bewildered spectators, who can see the tremendous potential that 25 million annual visitors represent, yet, they are unable to take advantage of it. As a result, the casino industry's indirect impact on employment in Atlantic City businesses has been slight. If only half of the 25 million annual visitors could be induced to spend as little as \$5 per visit outside the casino-hotels, this would result in an annual expenditure of \$62.5 million. Spending of this magnitude would support at least 2,000 jobs (i.e., one job per approximately \$30,000) in restaurants, stores and other enterprises.

As noted above, one source of casino-induced increases in secondary employment will be the industry's payments to contractors and suppliers. Each Atlantic City casino-hotel spends approximately \$30 million per year to purchase goods and services. Seventy percent of this amount, \$21 million, is spent in the State of New Jersey. Applied to the number of casino-hotels which could be developed in Massachusetts, between approximately \$90 and almost \$120 million would accrue to businesses which supply the industry. It is difficult to judge how many new jobs would

result from this spending. A 1979 study of the impact of the Resorts International casino on the Atlantic City economy estimated that 2.11 jobs per \$1 million of gross casino win resulted from Resorts' employment of contractors and suppliers.¹ Applied to the estimated gross win per Massachusetts casino of \$140 million, this indicates that approximately 295 new jobs in "support" businesses would result from the operation of each casino-hotel. Assuming an average annual expenditure per casino-hotel of \$21 million, this would be equivalent to one job for each \$71,000 outlay to contractors and suppliers. On an industry-wide basis, this translates into between 1,263 and 1,682 jobs.

It is very difficult to estimate the number of new jobs which will be generated by Massachusetts casino industry patrons' expenditures outside the casino-hotel facility. Casino gambling in Massachusetts, as in New Jersey, will primarily attract gamblers from the surrounding region. Judging by the Atlantic City experience, very few of these visitors will stay overnight and most will economize on non-gaming expenditures. The typical Atlantic City visitor is described as having a "racetrack philosophy," in that he/she visits solely to gamble, seldom ventures outside of the casino and returns home after several hours of gambling. As a result, very little spending has spilled over to the city's business community. As noted above, this is due in part to the lack of opportunity for visitors to engage in outside spending. Given the sorry state of the Atlantic City nongaming tourist industry, it is not clear whether the "racetrack philosophy" attributed to Atlantic City gamblers is endemic to day-trip gamblers. The SRC surveys, discussed earlier in this report, found that gamblers spent much more money on vacations, entertainment and recreation than nongamblers did. In a more attractive setting that provides a greater mix of gambling and nongambling diversions, the portion of total expenditures captured by businesses outside the casinos might rise dramatically.

¹ Frederick O'R. Hayes, The Impact of the Resorts International Casino-Hotel on the Atlantic City Economy, February 1979. Cited in Reuter and Ruth, supra, p. 52.

The lack of outside spending is also due to the nature of the casino industry. Casino-hotels attempt to prevent their customers from leaving the premises by providing for all of their needs within the confines of the facility. Although this practice is aimed at discouraging gamblers from moving between casinos, it has the added effect of isolating casino patrons from the local nongaming business community.

If the economic redevelopment of the surrounding area is the primary purpose of authorizing casino gambling, the industry's indirect impact on employment and secondary development will be more important than its direct contribution to the local economy. To foster economic growth in the surrounding region, the presence of the casino must induce the establishment of complementary enterprises and encourage the expansion of existing businesses. For example, while the number of jobs created directly within the casino and attached hotel will be substantial, it will not increase over time. In contrast, the number of secondary jobs is limited only by the ability of local businesses to capitalize on the tremendous influx of visitors which the casino will attract. Moreover, because many of these businesses will be locally owned, the money spent by tourists is more likely to be re-spent in the local economy. For example, if an individual who visits the area to gamble at the casino spends \$50 at a local store or restaurant, and the owner of the business then spends the \$50 to purchase goods or services from another local business, the total cash flow of the region is increased by \$100. This process will continue as the money is spent and recycled in the local economy. Eventually, the money will "leak" out of the local economy for the purchase of goods and services produced outside the region. In the meantime, however, it will have had a multiplier effect on employment and income in the area. Casino industry profits, on the other hand, will be dispersed outside the region as dividends to shareholders.

It is crucial, therefore, that casinos be permitted only in areas where there is substantial potential for nongambling expenditures by casino patrons. Otherwise, the Atlantic City experience will be repeated, and the amount of secondary development and employment will be minimal. This criteria would favor sites that offer a diverse mix of alternative entertainment and recreational alternatives. In such a setting, the casino would be an additional incentive for visiting the area, rather than the sole reason for doing so. This approach would increase the area's drawing power, encourage visitors to extend the length of their stay and attract tourists who would allocate a greater share of their total budget to expenditures outside the casino facility. Particularly intriguing is the concept of using a casino as the centerpiece of a multi-faceted resort complex modeled after Boston's Quincy Market development. The Equitable Life Assurance Society and Kravco, Inc. have announced plans to undertake a similar project in Atlantic City by investing \$40 million to develop a retail center on the city's former Million Dollar Pier. The opening of this project will provide the first real test of whether day-trip gamblers can be induced to patronize businesses outside the casinos.

In light of the discussion above, the Atlantic City experience may not be a good model for estimating what could be achieved in Massachusetts regarding the number of jobs that will be generated by casino patrons' expenditures outside the casino hotels. However, to be conservative, the Bureau has based its estimate of the number of jobs generated by spending outside the casino-hotel solely on such spending by casino patrons from other states. Obviously, Massachusetts residents will also purchase goods and services on the way to and from, and while visiting the community where the casino-hotel is located. It is assumed, however, that jobs resulting from the resident population's outside spending will represent a transfer of employment from other parts of the state. In other words, it is assumed that 100% of this spending is displaced from other in-state businesses. Total outside spending

by visitors from other states is estimated as being equivalent to 10% of the gross casino win. That is, for every \$100 in gambling losses, \$10 is spent outside the casino-hotel.¹ Although this may not appear low at first glance, it means that for every \$667 wagered at the casino only \$10 is spent outside the casino complex (losses represent 15% of the amount bet). Applied to the lower estimated nonresident gross casino win of \$200 million, total expenditures outside the casino facilities would be \$20 million. The higher estimated nonresident gross casino win of \$400 million would generate \$40 million in outside spending. Using a ratio of 33 jobs per \$1 million in expenditures, between 660 and 1,320 new jobs would be expected to result from tourist expenditures outside the casino-hotels. It must be emphasized that these estimates are based on the extremely pessimistic assumptions that visitors from other states spend a mere \$10 outside the casino-hotels and that each job created by Massachusetts resident outside spending will be matched by a decline in employment elsewhere in the state.

Opponents of legalizing casino gambling argue that most of the jobs created by the industry will be low paying and offer little opportunity for advancement; they are correct, and individuals who can find higher paying, career-oriented jobs in other industries will continue to do so. Presumably, however, one of the objectives of legalizing casino gambling would be to improve the status of persons with limited employment alternatives. For many of these individuals, the jobs created by the industry will be a significant improvement over their current or prospective employment options. This is particularly true of jobs within the casino complex, most of which, judging by the Atlantic City experience, may pay higher wages than equivalent positions in noncasino businesses.²

¹ The amount spent by Atlantic City visitors outside the casino complexes is unknown.

² See Chapter II of this report.

The final type of secondary employment that will result from the legalization of casino gambling is the jobs created by the expenditures of the casino industry workforce. Assuming an average annual wage of \$10,500 per employee¹ and 2,200 workers per casino-hotel, each facility will have a payroll of more than \$23 million. The local area's ability to "hold" this income will depend upon (1) the success of the local population in securing jobs in the casino-hotel and (2) how dependent the area is on goods and services imported from outside the region. If a large portion of the industry workforce commutes from outside the area, the increased income from casino employment will be spent outside the area. For example, in New Jersey, many of the casino-hotel workers commute to Atlantic City from the greater Atlantic County area. As a result, while retail sales in Atlantic County have increased substantially in recent years, Atlantic City merchants have not fared as well. Similarly, if the "new" money spent in local businesses by the industry workforce is spent to purchase goods and services produced outside the region, the increase in employment in the immediate area due to the multiplier effect will be significantly reduced.

Because casinos will divert revenue from other Massachusetts businesses, the legalization of casino gambling will also have negative indirect impacts on statewide employment. This was accounted for in estimating the number of new jobs likely to result from tourist expenditures outside the casino facility by ignoring outside spending by Massachusetts residents. A similar approach is used to estimate the number of multiplier jobs which will result from spending by the industry workforce. For estimating local employment, a rather low multiplier of 1.5 is used and is applied only to the number of casino industry jobs which are created by casino patrons from other states.²

¹ Data provided by MGM Grand Hotels, Inc.

² This approach was used by Reuter and Ruth, supra, p. 65.

It was estimated above that nonresident gambling losses would be between \$200 and \$400 million on an annual basis. Direct employment in the casino industry was calculated using a ratio of 16 employees per \$1 million of gross casino win. On this basis, gambling losses by tourist gamblers would generate between 3,200 and 6,400 jobs within a Massachusetts casino industry. The number of multiplier jobs resulting from these casino workers' expenditures in the regional economy, assuming a multiplier of 1.5, would be between 4,800 and 9,600.

Up to this point, the adverse impacts on employment in other sections of the economy from the diversion of spending to the casino industry have only been partially accounted for. Unfortunately, no study has ever been made of how consumers reallocate their spending to finance their casino gambling losses. It must be assumed, however, that a substantial portion of the casino gross win resulting from gambling losses by Massachusetts residents will be money that would otherwise have been spent at other businesses within the Commonwealth. This will cause employment to decline in those industries that are adversely affected. As noted earlier, if those industries from which this revenue is displaced are more productive of employment than the gaming industry, the negative impact on employment could be severe.

Government Revenue

The legalization of casino gambling will produce both new and expanded revenue for state government from a variety of sources. Increases in employment will cause state personal income tax revenues to rise. The state will also receive substantial revenue from corporate income tax collections from the casino-hotels. Sales, cigarette, gasoline, meals and room tax collections would also increase. By far, the most important new source of revenue, however, will be the tax imposed on the casino industry gross gaming win.

The current proposals before the General Court provide for a 7% tax on the gross casino win. A much higher tax rate may be warranted. One of the approaches to casino development under consideration in Massachusetts would limit the number of casino facilities to two for a period of five years. Given the potential demand for casino gambling indicated by the market estimates made above, these casinos would be expected to realize an extremely high gross win, perhaps as high as \$200 million each. During its first five months of operation, when it was generating a gross win of approximately \$600,000 per day (equivalent to an annual gross win of \$219 million) the Resorts International Atlantic City casino earned an "astonishing" 59.7% of gross revenues as profit before corporate income taxes.¹ If casinos in Massachusetts earned even half that amount, the state could impose a much higher tax rate without discouraging investors. Based on data from Nevada and their estimates of the potential market for casino gambling in New York, Reuter and Ruth concluded that a tax rate of as high as 20% would allow a sufficient return on investment to encourage investor interest. Moreover, they noted, the burden of a high tax on gaming revenues is not borne by casino operators but by the federal government because revenues are diverted from the federal corporate income tax.²

Based on these considerations, a casino gross win tax of 15% appears to be feasible. Assuming that only two casinos are permitted, the industry gross win could probably not exceed approximately \$660 million.³ Taxed at a rate of 15%, a gross win of this magnitude would produce almost \$100 million in tax revenue. This probably represents the maximum amount the state could expect to receive in gross gaming

¹ Hayes, supra.

² Reuter and Ruth, supra, p. 17.

³ Based on a gross win per square foot of casino floor space of \$5,523 (the early Resorts' experience) applied to two 60,000 square foot casinos.

tax revenues and could be achieved only if the number of casinos is limited to two. If, instead, a less restrictive approach to casino development is adopted, the potential industry gross win could increase to as high as \$300 million. Under such circumstances, however, it may not be possible to impose a tax rate of as high as 15%. As noted earlier, the market for casino gambling in Massachusetts could support between 4.28 and 5.7 forty thousand square foot casinos with annual gross wins of \$140 million each. Since, under this approach, the gross casino win would have to cover the operating costs of a greater number of facilities, profits would decline and the tax rate would probably have to be lower. Assuming it was set at the New Jersey rate of 8%, the state would receive \$48 million in revenue based on the lower estimated potential gross casino win of \$600 million, and \$64 million based on the higher estimated potential gross win of \$300 million. As noted earlier, although permitting a greater number of casinos will reduce gross casino win tax revenues, it would generate a far greater number of jobs.

The tax implications of legalizing casino gambling cannot be evaluated solely on the basis of how much money could be raised, however. It is equally, perhaps more, important to consider who will bear the burden of the tax.

According to one view, casino gambling is a luxury and the tax on the gross casino win is, therefore, a luxury tax similar to taxes on horse racing, cigarettes or alcoholic beverages. Because the casino gambling tax falls on discretionary income, not on purchases of essential goods, no one pays the tax who does not choose to. This line of reasoning is similar to that expressed by Governor John W. King when New Hampshire established its state lottery. "We are faced with a choice between compulsory taxation through the proven, but harsh, method of a sales tax and voluntary taxation through the sweepstakes." Adherents of this view question the relevancy of the traditional concepts of progressivity and regressivity to revenues raised by gambling taxes.

University of Michigan economist Daniel B. Suits maintains that this argument confuses form with economic substance. He notes, for example, that the tax on a bottle of liquor is no less a tax because the buyer is free not to purchase it. On the contrary, the burden of financing state services is apportioned among income groups in proportion to their demand for liquor." The same reasoning applies to tax revenues raised by gambling taxes. Only in this case, the costs of government are apportioned among income groups in proportion to the amount they wager. Every study of casino gambling has concluded that easy access to casino gambling will result in lower income groups spending a higher percentage of their income on gambling than higher income groups. As a result, taxes raised by the legalization of casino gambling will be regressive in nature. For this reason, the Commission on the Review of the National Policy Toward Gambling advised against the legalization of casino gambling outside Nevada. It noted that its survey results (the SRC surveys) "tend to support the arguments of those who claim that establishing Nevada-type gambling in densely populated areas will foster participation by those who can least afford it."¹

¹ Commission on the Review of the National Policy Toward Gambling, Gambling In America, 1976, p. 92.

CHAPTER V. CASINOS AND CRIME

PART 1. CRIME IN THE STREETS AND IN THE CASINOS

Street Crime

There is overwhelming evidence in the literature of crime that the introduction of legal casino gambling contributes to a substantial increase in street crime. Street crimes range from the worst felonies to the relatively harmless misdemeanors. They include, but are not limited to, murder, rape, armed robbery, aggravated assault, mugging, burglary, larceny, auto theft, narcotics sales, prostitution, purse snatching and petty thievery.

Most of these crimes, often cited by casino opponents as casino-related crimes, occur in many recreational settings where there are large groups of people with substantial amounts of money to spend. Casino proponents underscore the incidence of these types of crimes at nongambling family-oriented recreational sites such as Disney World. Advocates of casino gambling argue that casinos are being unfairly stigmatized by anti-casino forces who make selective use of street crime statistics. Casino opponents are frequently accused by casino advocates of ignoring increases in street crime at nongambling tourist sites, creating an impression that only gambling sites are attractive to street criminals. Opponents are also accused of manipulating crime statistics in casino resort areas to produce a delusive portrayal of crime incidence in a casino setting.

While there is some merit in the proponents' claim that opponents both ignore the general pervasiveness of street crime, and in some instances use statistics carelessly, it is undeniable that casino gambling has a twofold effect on street crime. First, the gambling palaces attract people with money who are the potential victims. Casino patrons are the targets of muggers, armed robbers, petty thieves, prostitutes and dope pushers. Second, casino gambling produces a number of heavy losers - some of whom become desperate enough to become thieves themselves.

stealing from other gamblers, from hotel and motel rooms, and from vulnerable businesses in the area. Other losers fall prey to loan sharks who, when debts are overdue, often use violence to enforce their collections.

Street crime occurring in a casino setting is likely to involve more vice and more violence than street crime in a nongambling tourist area. Pimps and prostitutes, con men and loan sharks, scam artists and drug pushers are more likely to seek the glitter type atmosphere of the casino setting than to pursue their victims among the crowds attending any of the variety of tourist areas which do not offer gambling.

In 1981, the New Jersey Casino Control Commission noted that the crime rate in Atlantic City had surged 171% since 1977. "(W)hen compared with a statewide rise of 26 percent in the same period the conclusion appears inescapable that casino gambling is a magnet for street criminals."¹ While most of the increase is attributable to offenses as robbery, larceny, and auto theft, the Commission added, "...there has also been a disturbing increase of such crimes of violence against persons as rape and assault. Prostitution is a visible problem, and has increased markedly since casinos came to the city."²

There are some caveats to consider when examining statistics on street crime as related to casinos, or for that matter, any resort area which contains a tourist attraction that draws large numbers of visitors. Crime indices are based on the numbers of crimes reported in a given jurisdiction (i.e., a city or metropolitan area). Thus, the estimated rate of crime in that jurisdiction is based on the resident population. An obvious flaw in this approach is the exclusion of visitors from the population base. Visitors to a tourist area, who are among prime

¹ New Jersey Casino Control Commission, A Report on Casino Gaming in Atlantic City, August 1981, Lawrenceville, N.J., 21pp., at p. 18.

² Ibid.

targets of certain criminals, may be anywhere from twice to a hundred times greater by number than the population of the area. When annual tourist counts reach nearly 20 million in a city with less than 50,000 residents, such as Atlantic City, there is an obvious distortion of the rate of crime. Further, when statistical compilations are confined to a period of time which reflects dramatic changes, one has to beware of what base period is employed. For example, it may be correct to state that the rate of certain crimes has increased 100% or 200% or even more in a given area over a particular period¹ but it would be more accurate to measure the increases, if any, based on the annual increase of visitors to the area being measured. Where the frequency of a particular type of crime is very low before the opening of a new and popular tourist attraction and dramatically high after two or three years of operation, the resulting growth when expressed without adjusting for the influx of tourists is bound to be staggering in effect.

Leaving the debate over rates of increase aside, there is no question that the number of street crimes has increased dramatically in Atlantic City since the legalization of casino gambling. Table 7, compiled by the Atlantic City Police Department, documents the increased criminal activity from 1977, the last pre-casino year, through 1982 when nine casinos were operating.

¹ See, e.g., Atlantic City crime increases stated as percentages in period 1977-1980, Report in Opposition to Legalized Casino Gambling in New York State, Attorney General Robert Abrams, 1981.

Table 7. Incidence of Crime In Atlantic City

<u>Uniform Crime Report</u>	<u>1977</u>	<u>1978¹</u>	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>
Pickpocket	15	131	231	544	1,247	1,550
Pursesnatch	156	129	229	503	231	179
Shoplifting	66	74	185	269	292	384
Larceny from Motor Vehicles	400	639	914	1,897	1,788	1,232
Larceny MV Parts/Accessories	285	329	408	590	580	229
Larceny of Bikes	210	190	246	269	174	211
Larceny from Buildings	826	854	1,312	3,640	4,378	6,266
Larceny from Coin Operated Machines	2	8	19	33	45	92
Larceny All Others	161	191	244	368	327	326
Stolen Auto	469	605	874	1,217	1,067	817
<u>Index Crimes</u>						
Homicide	10	12	9	11	17	20
Rape	27	36	63	51	63	54
Robbery	257	339	432	644	783	663
Assaults	579	685	1,528	1,616	1,723	1,594
Breaking & Entering	<u>1,457</u>	<u>1,742</u>	<u>1,495</u>	<u>1,621</u>	<u>1,223</u>	<u>1,335</u>
Total	<u>4,920</u>	<u>5,964</u>	<u>8,189</u>	<u>13,273</u>	<u>13,938</u>	<u>15,452</u>

¹ The first casino, Resorts International, opened in May, 1978.

Source: Atlantic City Police Department, February, 1983.

Street crime can be controlled, although admittedly, in a casino setting, only at considerable expense and requiring a larger local police department - one of unquestioned honesty - working in cooperation with state law enforcement personnel.

To borrow from the New Jersey Casino Control Commission once again:

New Jersey's experience indicates strongly that when casinos are legalized crime becomes more of a problem in the locales where casinos do business. This requires a greater investment of law enforcement resources and New Jersey has made that investment and will maintain it.

Thus, concurrent with the increase in Atlantic City crime, there has been a major increase in the presence of law enforcement personnel. In 1976, the principal law enforcement agency, the Atlantic City Police Department, had 276 members.¹ By late 1982, as the result of the casino presence, it had grown to 358 members. In addition, there are, on the Atlantic City scene, more than 100 federal agents who represent the interests of the FBI, the Drug Enforcement Agency, the Secret Service, the Justice Department's Organized Crime Strike Force, the Bureau of Alcohol, Tobacco and Firearms, the Internal Revenue Service and the Department of Labor.² On the State level, the Division of Gaming Enforcement has 475 employees including 265 investigators and 30 deputy attorneys-general. The State Police has assigned 140 of its personnel to the Division of Gaming Enforcement and has directed several of its bureaus to closely monitor activities at Atlantic City. An additional 250 staff employees of the Casino Control Commission deal with the suitability of license applicants.³

Aside from this array of law enforcement personnel, there are hundreds of private security personnel employed by the casinos who patrol the casino floors and roam the hotel premises.

¹ Bernard Edelman, "Shaking Down Atlantic City", Police Magazine, November, 1982, p. 41.

² Ibid.

³ Ibid., p. 46.

According to Atlantic County Prosecutor, Joseph Fusco, the casinos have wrought changes that have compounded the local police problem. "The old guard in¹ (our) 'sleepy resort town' was confronted with a whole new ballgame." Reese Palley, a businessman and early advocate of gaming in Atlantic City, shares Fusco's view. Palley describes the police department as one which "was suddenly catapulted from the lowest level of police activity to the highest. They were confronted with ordinary and violent crimes and problems that went beyond their abilities altogether."²

The ensuing confusion eventually led to a much needed reorganization of the Police Department in October, 1981, in which an increased police visibility coupled with more crime prevention patrols, has had some positive results. The commission of some types of crimes has been drastically reduced while the number of arrests have increased about 50%. All of this has not been without a budget impact. The Police Department budget increased from \$2.9 million in 1976 to \$8.4 million in 1981. Aside from adding 82 officers to the ranks, the maximum salary for a police officer was increased from \$11,500 (in 1976) to \$25,500 (in 1982).³

Reports that the casinos lured the cream of the Police Department to work for them appear to be inaccurate, according to statements by Inspector Nicholas Rifice of the Atlantic City Police department. About 25 officers (less than 10% of the 1976 force) resigned in the early period of casino operations and most of them were near retirement age. Most of the others, Rifice states, are dissatisfied with the casino security system and its fewer benefits and have requested reinstatement with the department.⁴ An opposite view is that/a former officer who expresses no regrets over joining a casino security force. He sees the work of the police department as having drastically changed. Where an officer once knew everyone in a neighborhood, he must now deal with a massive influx of total strangers.⁵

¹ Ibid., p. 42.

² Ibid.

³ Ibid., p. 43.

⁴ Ibid.

⁵ Ibid.

Prostitution, in particular, has become a major priority of the Police Department. According to one detective, "It used to be there were maybe ten hard-core hookers in Atlantic City before the casinos. There were 450 in and out of here last summer, (1981) and this summer has been worse...(E)ven the ugly girls¹ were making \$2,000, sometimes \$3,000 a week." At one point in 1982, the situation was "so bad that clusters of prostitutes congregated on the corners, accosting² passersby, jumping into cars or stealing wallets in a scramble of hands." In 1982, victims reported more than a half-million dollars was stolen by prostitutes³ "and undoubtedly much more has been taken and not reported." The scandal provoked a march on City Hall by community leaders. The police responded with increased arrests and courts began substituting jail time for first offenders in place of the token fines of \$200. However, the State Legislature has downgraded soliciting from a "disorderly offense" punishable by a fine and up to six months in jail, to a "petty disorderly offense" with the penalties of 30 days in jail and a maximum fine⁴ of \$500.

Although hard statistics are lacking, Atlantic City police officers believe most of the other street crimes are also directed at visitors, not residents.

The gamblers rarely venture outside the casinos. When they do, they seldom go beyond the Boardwalk (much to the chagrin of Atlantic Avenue merchants). But while they are inside the casinos, their cars are frequently broken into and rifled, or stolen. And their rooms are burglarized.⁵

In-Casino Crime

The casino industry itself, often the victim of criminal schemes, is a unique problem for law enforcement. As G. Michael Brown, former Director of the New Jersey Division of Gaming Enforcement, put it---

¹ Ibid., p. 44, quoting Detective Jim McCusker.

² Ibid.

³ Ibid.

⁴ Ibid.

⁵ Ibid., p. 45.

The people working in the industry are subject to a glitter-type of atmosphere. *** Fast money, tips, crazy hours, go-go pace, traveling in the fast lane. The combination of all those factors creates an environment very attractive to crime.¹

Among crimes that bedevil casino management are "scams," i.e., ingenious methods devised to cheat the management, sometimes by patrons, sometimes by employees, and on occasion, by both in collusion; skimming, i.e., diverting casino income for questionable or unlawful purposes - such funds are not reported as income; and embezzlement. Jerome Skolnick, in his study of the casino industry in Nevada, has made these observations on scams and on the type of criminal who operates within the casinos:

The sort of people involved in gaming scams are more likely than the normal population to feel cool under pressure and little emotion when lying. The people who commit gaming crimes are rarely impulsive criminals. On the contrary, the gaming board is faced with a population of the coolest, slickest, most organized and inventive criminals imaginable. Whether they would qualify clinically as psychopaths is hard to say. But they are confident men and women of just the sort who could most likely prove to be false negatives in a lie detector test.

* * * *

Those who inhabit the gaming business are far more skillful and capable than the ordinary criminal actor. I am not talking here only about the organized crime variety made so familiar in The Godfather and other popular fiction and fact, but of the resourceful criminal, who is knowledgeable and professional. Law enforcement in this context requires extraordinary access to information, extraordinary observation and surveillance skills, and extraordinary luck. In short, the odds against effective policing of the casino floor seem scarcely as good as the odds on the games.²

The known incidents of skimming and embezzlement in the casino industry are well documented. But there are probably as many, if not more, examples of undetected fraud or collusion in criminal activity within casinos in spite of sophisticated surveillance systems and highly trained and experienced internal security personnel.

¹ Quoted by Michael Pollock, "Atlantic City Watch-A 'Family' Resort", New Jersey Reporter, September, 1982, p. 6.

² Skolnick, House of Cards, pp. 256-257.

There are many ways to skim a casino, some of which are accomplished by a lone cheater, others by conspiring with casino personnel. Wheel mechanisms of the slot machines have been manipulated in various manners and in table games swindlers adept at handling chips may add or retract chips after the hand is dealt so as to boost winnings or cut losses. A dealer may be in on the scam for a cut of the take. Other forms of criminal activity on the floor range from pickpockets lifting wallets to players passing counterfeit bills and stolen travelers' checks or using stolen credit cards.

The most pernicious problem in the casinos is credit fraud. The perpetrator of the credit scam is the hardest to catch because the law enforcement agency learns of it after the fact. Regulatory personnel assert that casinos contribute to the problem because they have not been strict enough in screening credit applications. A gambler using stolen credit cards, or fraudulent identification, may obtain an advance in chips, promptly repay a series of losses in chips, then with a healthy balance remaining, he will cash the chips and abscond. Because the casinos can write off up to four percent of their gross income on credit losses, their incentive to tighten internal controls is lacking. T. Barry Goas, Chief of the Casino Control Section in the Attorney General's office, is quoted as saying that casino¹ losses to credit scams run into the millions of dollars. While many of these scams are perpetrated by individual artists, many more are the handiwork of organized² crime.

Notwithstanding casino gambling's effect on street crime and opportunities for individuals to perpetrate internal scams, embezzlements and the like, the most serious problem connected with the casino presence is that of organized crime.

"The first thing that comes to mind when the words crime and casinos are joined is organized crime. *** No one could or would deny that casino gambling, a huge cash business, is an inviting target for organized crime. Not only actual casino operations...but ancillary businesses are viewed as ripe targets of opportunity by organized criminal elements."³

¹ Edelman, supra, p. 47.

² Ibid.

³ New Jersey Casino Control Commission Report, supra, p. 17.

PART 2. THE INFLUENCE OF ORGANIZED CRIME

Introduction

The most frequent and most forceful argument raised against the legalization of casino gambling is the magnetic effect that casino gambling has on organized crime. The magnetic force, of course, is money. The magnetic field is the huge flow of money within and surrounding the casino operation. Since the objective of organized crime is to acquire money, to control it, and to use it in furtherance of its criminal purposes, organized crime is irresistibly drawn to casino gambling much like iron is induced to move toward the source of the magnetic force. While other forms of economic activity may also be described as having an alluring quality with respect to their ability to attract criminal elements, it seems fair to say that for comparative purposes, the magnetic force of casino gambling on organized crime is exerted to the same degree of intensity as that of a magnetic pole.

Why this is so is perhaps better understood if something more than a mere surface impression of the nature and background of what is generally referred to as organized crime is presented. In the following text, organized crime is examined by scrutinizing authoritative findings and opinions as to the essence of the genre, the roots of its social and economic structure, the gradual alteration of that structure and the more recent perspectives of its operations.

The Essence of Organized Crime

Volumes have been written on the subject of organized crime. Such outpouring of the written word on this subject ranges from thick, official tomes of government agencies to specialized studies by criminologists and sociologists, to popular, dog-eared novels such as The Godfather. There seems, however, to be little or no agreement on a precise definition of organized crime. According to the

Special Commission which investigated organized crime and related matters in Massachusetts during the decade of the fifties, that term is not possible to define with any exactness:

"Organized crime" defies exact definition. To most laymen the words evoke a picture, based on press and literature of prohibition days, of closely knit groups engaged in illegal activities with a chain of command headed by a crime syndicate, board of directors or overlord extending through subordinates, subsidiaries and affiliates, with military discipline, to control all necessary individuals and services down to the lowest level. Unquestionably such criminal organizations, large or small, with broad, diverse objectives or in specialized fields of crime, have existed and now operate. But if every such organization could be identified and placed under the microscope the study would still provide an inadequate definition of organized crime.¹

It was the opinion of the Special Commission that "there is no controlling syndicate, board or boss of all organized crime."² Such an organization, the Commission felt, would be too big and too vulnerable and is unnecessary to making money. It was not the leaders of criminal organizations that the Commission saw as the significant factor:

Leaders come and go; associations are fluid and frequently changed. Control rests on and comes through money. The foundation stone of organized crime - the all-important fact - is not the presence of transient leaders, but the continuing existence of an army, mob or pool from which the criminal with an idea and money can draw recruits for the mission of a night, of months or of years. This army, mob or pool is a brotherhood, knit in a patchwork organization, not by leaders, but by desire for money without work and by a readiness, in varying degrees, to violate society's laws to that end.

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This brotherhood is organized crime.

Members of the organized crime community, the Commission wrote, are individuals whose urge for money and aversion to the drudgery of available occupations within the law transcend or subvert principle.⁴ But, added the Commission:

¹ Report of the Special Commission Revived and Continued for the Purpose of Investigating Organized Crime and Other Related Matter, Senate, No. 700 of 1957, p.42.

² Ibid., p. 43. This 1957 report was published the same year in which leaders of organized crime families met in Appalachia, New York. The details of that conference of dons may not have been available to the Commission.

³ Ibid., p. 43.

⁴ Ibid., p. 44.

It also includes persons, who, while not career-criminals, participate on the fringe in criminal activity, or, with guilty mind, profit directly or indirectly therefrom. It is to be noted, moreover, that members of the community are by no means engaged exclusively in activities of organized crime. Many are engaged or employed, in varying degrees, in lawful occupations. But all, from center to fringe, are racketeers, though the term is not generally applied when a particular individual is segregated from the class.¹

Although the Commission found that there are fields of concentration among the organized crime community, and some criminals have an aversion to engaging in particular areas of crime, even to the point of working rather than living by a particular criminal activity, there is one common denominator:

One thing is certain about this community, from center to fringe. It is ruled by money. In the center are those who found no success or disdained success with the law. On the fringe are those who, with money earned mediocre success within the law, invest in ventures outside the law. Between center and fringe are varied combinations of "racket" and "legitimate" money. Money and ability to control it are the powers in organized crime. Beside them the power of the gun is secondary and auxiliary.²

One further pertinent reference to the Special Commission's report is its observation on the inseparable relationship of criminal activity and gambling:

The Commission has found in its own work that no matter with what career-criminal or with what field of crime an investigation starts, it is sure to run into gambling - sooner, not later.³

In 1965, the Massachusetts Crime Commission devoted several pages⁴ of its comprehensive report to the subject of organized crime. Among conclusions relating to organized crime, the Commission stated:

Organized crime is built on and receives its principal support from gambling.

The leaders of organized crime enjoy advantages which play a significant part in the war against them. They receive protection from restrictive laws relating to law enforcement; they insulate themselves sufficiently to avoid conviction under present anti-gambling laws; they exercise strong political power in some quarters; they use bribery and physical violence without hesitation

¹ Ibid., p. 44.

² Ibid., p. 45.

³ Ibid., p. 46

⁴ Comprehensive Report of the Massachusetts Crime Commission, May 17, 1965, 73 pp. See Part III, Organized Crime, pp. 15-19.

and with little fear of detection; they command unlimited funds; and they have a comprehensive spy system which enables them to exercise their power effectively.

With the fortunes amassed in illegal activities, leaders in organized crime are entering business operations of various kinds, usually those in which the practices familiar to them can be used to advantage.

In 1968, the Massachusetts Legislature enacted a substantial revision of the wiretapping and eavesdropping law and included in the statute's preamble the following findings concerning organized crime to justify electronic surveillance:

The general court finds that organized crime exists within the commonwealth and that the increasing activities of organized crime constitute a grave danger to the public welfare and safety. Organized crime, as it exists in the commonwealth today, consists of a continuing conspiracy among highly organized and disciplined groups to engage in supplying illegal goods and services. In supplying these goods and services organized crime commits unlawful acts and employs brutal and violent tactics. Organized crime is infiltrating legitimate business activities and depriving honest businessmen of the right to make a living.¹

In 1967, a Presidential Commission, through its Task Force on
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Organized Crime, reported:

Organized crime is a society that seeks to operate outside the control of the American people and their governments. It involves thousands of criminals, working within structures as complex as those of any large corporation, subject to laws more rigidly enforced than those of legitimate governments. Its actions are not impulsive but rather the result of intricate conspiracies, carried on over many years and aimed at gaining control over whole fields of activity in order to amass huge profits.

The core of organized crime activity is the supply of illegal goods and services. But organized crime is also extensively and deeply involved in legitimate business and in labor unions. (emphasis added)

At a 1971 symposium on organized crime, former U.S. Commissioner of Internal Revenue, Randolph W. Thrower, describes the power and influence of organized crime in the following passage:

¹ G.L. c. 272, s. 99.

² President's Commission on Law Enforcement and Administration of Justice. Task Force Report: Organized Crime.

Organized crime is a very pervasive force in that in the absence of the strongest kind of opposition, it seldom releases territories that it has invaded and is constantly seeking opportunities to extend its influence into new areas. We have seen repeatedly that it corrupts and contaminates whatever it touches. It brings with it a moral deterioration. It extends this in every direction, from the pushing of narcotics onto new victims to the corruption of police and other public officials; it crushes those who would appease it and subverts groups such as labor unions, and it infiltrates into otherwise legitimate business. Once it has gained a foothold it becomes within the area of its interest, a well financed and unscrupulous enemy of honest government, of independent businesses small and large, of representative and responsive unionism, and of effective and efficient law enforcement.¹ (emphasis added)

Thrower states that the "objective of organized crime is to make money, big money, and to use the money to accomplish further criminal purposes without payment of income tax."² Although some of its gambling income is reported for tax purposes, Thrower states that unreported gambling income of organized crime runs into "the billions of dollars."³

At the same symposium, a national labor union official describes organized crime as an institution infused with the blood of many ethnic strains. But it is an institution more interested in economic and political powers than in blood and it instinctively reaches out to control as much as it safely can, including big business and powerful figures:

It is well organized on a national, even international, basis. It uses its methods in the world of legalized enterprise to assist a special presence and power. It can adjust to affluence to add to its own affluence, while living by the immoral mores of its humble beginnings.

Organized crime is a social institution. It develops under a double dynamic: the evolution of an internal spirit and structure and the adjustment to an external environment. It continues and renews itself beyond the life of its founders because, as an institution, it spawns a life of its own.⁴

¹ Randolph W. Thrower, Introduction. Symposium: Organized Crime, 20 Journal of Public Law 33, Emory University Law School, Atlanta, Ga., 1971, pp. 33-34.

² Ibid., p. 36.

³ Ibid.

⁴ Gus Tyler, "Sociodynamics of Organized Crime" 20 Journal of Public Law 41, Emory University Law School, Atlanta, Ga., 1971, p. 42.

In 1976, a task force of the National Advisory Committee on Criminal Justice Standards and Goals also found organized crime to be "a difficult phenomenon to define." In nonlegal terms, it wrote, organized crime has been called everything from nonexistent to a vast conspiracy. Instead of trying to develop a specific definition, the task force proposed a description of organized crime which attempted to explain the nature of its activity, and dispel some of the myths and stereotypes surrounding the phenomenon. The following passages are excerpts from its discussion of the characteristics of organized crime:

1. Organized crime is a type of conspiratorial crime, sometimes involving the hierarchial coordination of a number of persons in the planning and execution of illegal acts, or in the pursuit of a legitimate objective by unlawful means***In terms of "hierarchial coordination," organized crime members may be part of a set structure where each participant's role is well defined. This kind of hierarchy, with all the components of a stratified, formal organization, is especially true of La Cosa Nostra (LCN), which is responsible for many, but by no means all of the activities characteristic of organized crime.

2. Organized crime has economic gain as its primary goal, though some of the participants in the conspiracy may have achievement of power or status as their objective.

Economic gain is achieved through supplying illegal goods and services, including drugs, loansharking, and gambling. As many organized crime studies point out, achieving a monopoly or near-monopoly in providing these goods and services guarantees high profits, and is thus a primary goal. These illegally acquired funds are frequently used to infiltrate legitimate businesses.

3. Organized crime is not limited to patently illegal enterprises or unlawful services...It also includes such sophisticated activities as laundering of illegal money through a legitimate business, land fraud, and computer manipulation.

Organized crime often seeks to secure partial or complete control over many kinds of profitable, legal endeavors. Organized crime attempts to infiltrate wherever there is a potential for profit.

¹ Organized Crime. Report of the Task Force on Organized Crime, National Advisory Committee on Criminal Justice Standards and Goals, Washington, D.C., December, 1976. Governor Brendan T. Byrne of New Jersey was Chairman of the Committee. Commissioner John F. Kehoe of the Massachusetts Department of Public Safety was Chairman of the Task Force.

4. Organized crime employs predatory tactics such as intimidation, violence, and corruption, and it appeals to greed to accomplish its objectives and preserve its gains.

These tactics may be sophisticated and subtle, or crude, overt, and direct. They are used to secure economic gain through a monopoly in illegal goods and services, as well as to infiltrate legitimate enterprises and to corrupt public officials.***

5. By experience, custom, and practice, organized crime's conspiratorial groups are usually very quick and effective in controlling and disciplining their members, associates, and victims.***The individuals involved know that deviation from the terms under which they operate will evoke a prompt response from the other participants. This response may range from a reduction in rank to a death sentence.

6. Organized crime is not synonymous with the Mafia or La Cosa Nostra, the most experienced, diversified, and possibly best disciplined of the conspiratorial groups.***Although a number of families of La Cosa Nostra are an important component of organized crime operations, they do not enjoy a monopoly on underworld activities. Today, a variety of groups is engaged in organized criminal activity.***

All of this adds up to a criminal brotherhood which pursues its objectives of money and economic power both by way of illegal activities and by control of lawful activities such as labor unions and legitimate businesses. This brotherhood is directed by intelligent individuals who are not averse to using violence, even to the point of murder, to accomplish their aims.

The Roots of Organized Crime

Much of the literature on organized crime in America focuses on the
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Mafia or Cosa Nostra, giving rise to a widespread assumption that organized crime
in America has its roots in the activities of the bootlegging syndicate that

1 Lexicographers define Mafia as a secret terrorist organization originating in Sicily, operating against legal authority since the early 19th century in Italy, and since the late 19th century active in the United States. In Sicilian dialect, Mafia means lawlessness, or boldness and is traced to the Arabic Mahyah meaning boasting.

² Translated from the Italian with various meanings: our thing, our enterprise, our property. Defined as a crime syndicate active throughout the United States, hierarchic in structure and comprising locally independent units known as families, the leaders of which make up a supreme commission. It is often believed to have an important relationship with the Sicilian Mafia.

controlled illegal liquor during the Prohibition period. However, as will be indicated below, organizations of criminals have been active in America since the colonial era, with beginnings along the eastern seaboard. There is also historical evidence that gambling syndicates, often with city-wide or regional affiliations, arose in many cities in the post-Civil War period.¹ Policy gambling - a forerunner of our modern numbers gambling - was coordinated by backers who financed local policy shops and often provided protection from police or political interference.

Mark Haller, a historian at Temple University, writes that the years from the 1880's to about 1905 may have been the period when activities that are often called "organized crime" had their greatest impact upon American society.² During this period, gambling and vice entrepreneurs exercised an influence on local politics and law enforcement that has, since then, seldom been equalled. One explanation is that the gambling syndicates and the local political organizations were one and the same and thus had a broad impact upon urban life. Aside from betting activities, there was also involvement in the informally approved red-light districts and the commercial night life entertainment in the cities. Thus, long before national prohibition and the development of bootlegging, there had already been close ties among gambling syndicates, vice activities, politics, sports and entertainment.

In an article on the social origins and development of organized crime, a national labor figure noted that there is a double inhibition against open and objective analysis of the subject.³ "(F)irst, to explain seems to excuse; second, to uncover the ethnic origins of organized crime seems to cover some ethnic group with mud."⁴ Organized crime, accordingly, is usually discussed as if it were a

¹ D.R. Johnson "A Sinful Business: Origins of Gambling Syndicates in the United States: 1840-1887". In Police and Society, D. Bayley, Ed., Beverly Hills, Calif. 1977.

² Mark H. Haller, "The Changing Structure of American Gambling in the Twentieth Century". Journal of Social Issues, Vol. 35, No. 3, 1979, p. 88.

³ Gus Tyler, Sociodynamics of Organized Crime, supra. Mr. Tyler at the time was Assistant President, International Ladies' Garment Workers Union.

⁴ Ibid., p. 41.

foreign element in our body politic, exempt from the social forces that make and move other developments in society.

Tyler's study of the social roots of organized crime, however, traces its institutional development as fashioned by its past and reshaped by its present to prove that from the beginning of our history there has always been an unbridled organization active in our society, operated by people whose character is ingrained with a strong strain of lawlessness and violence applied to their struggle for power.

Thus, organized crime in America can be traced from the first British families to the more recent newcomers. In the colonial period, the sea was the highway of commerce. English pirates, who operated off the Carolina coast, had their own army, a chain of command, a sophisticated operation, superior troops and high political connections.

As the interior of the country became settled, organized criminals, such as the John Murrell gang, moved up and down the Mississippi River Valley looting, killing and extorting on water and land.¹ With the westward movement of the frontier, organized gangs followed, their targets being stagecoaches and railroads. Western outlaw bands were well organized and operated from friendly enclaves.

In the post-civil war period, new eastern urban criminal organizations developed with ethnic origins among the Irish, who in turn yielded to Jewish gangs in the wake of Jewish immigration at the turn of the century. Jewish criminals were nationally prominent through the Prohibition era but in the 1930's and 1940's power began to pass to the Italians.² On the west coast, with its particular ethnic mix, the gangs were Chileno, Australian, Chinese and some eastern vagrants who settled in San Francisco.

¹ Ibid., p. 50.

² Ibid., p. 51.

Until the 1920's, organized crime in America was a provincial thing - gangs of different ethnic origins contesting the local market. But, as will be discussed below, Prohibition caused local operators to develop mergers to move illegal liquor across the Canadian border, ashore from rum-running boats, and past highway police in the interior. A national syndicate began to emerge. The period of transition from local to national direction coincided with the rise of the Italians in organized crime. For this reason, those who date the beginnings of organized crime in America from the Prohibition era, see the syndicate as an Italian "Thing."¹ In 1969, Salerno and Tompkins, in their book The Crime Confederation wrote:

"The Italian-Jewish Syndicate is fighting a carefully planned rearguard action as newer racial groups - Negroes, Puerto Ricans, Japanese, Mexican, Chinese - move upon the power structure. In the near future, the old guard will largely abandon the big cities to such groups as it follows the middle class to the suburbs and out to megalopolis."²

In summary, then, the current "Establishment" in organized crime is only the latest in a long line of succession of various ethnic groups with a cast of characters that unfortunately, in some cases, has been described by authors of fiction and screen writers in heroic molds. Viewed historically, those in today's cast of characters are merely playing the old non-heroic roles in a modern setting. The money and manpower, manipulation and muscle, have turned to other areas: unions, real estate, insurance, banking, Wall Street, shipping, mining, hotels and recreation. In that transformation, the small criminal organization has grown immense; it has moved from a local setting to the international scene; it has substituted financial devices in place of fists to exert its pressures. But though the time frame is different, the settings more grandiose, the plots more sophisticated, and the costumes more subdued, the intrinsic nature of the cast remains the same: criminal to the core.

¹ Ibid., p. 54.

² Ralph Salerno and John S. Tompkins, The Crime Confederation, Doubleday & Co., Garden City, New York, 1969, p. 376.

The Altered Structure of Organized Crime

After the turn of the century, a number of factors combined to alter the organization and control of policy and numbers gambling, bookmaking and casino gambling. During and after World War I, the emergence of black ghettos in various cities resulted in the introduction of numbers gambling among blacks and permitted them to attain controlling positions in numbers and policy syndicates. The nature of sports betting and bookmaking was altered, - first by the changing ownership of the national race wire and then by the telephone, contributing to the demise of the oldtime "horse parlor"

About this same time, organized crime began to be likened in structure to business corporations and governments. In 1915, the Chicago Crime Commission reported: "The criminal group...has many of the characteristic of a system. It has its own language; it has its own laws; its own history; its tradition and customs; its own highly specialized modes of defenses." ¹ As previously noted, Prohibition gave rise to bootlegging in the 1920's, an activity which gave wealth, business experience, and political influence to many ambitious young men. As these criminals expanded their operations on a national and international scale, they developed organizational and managerial skills, and a refined knowledge of the use of capital resources. Both before and after Repeal, many bootleggers and former bootleggers invested in gambling enterprises and thereby, in complex ways, affected control of specific kinds of gambling in particular regions of the nation. By 1951, United States Senator Estes Kefauver was referring to a nationwide crime "syndicate," a term derived from the corporate world. In 1958, Paul W. Williams, United States Attorney for the Southern District of New York, in a speech entitled "The Invisible Government" stated that "we have a second government extending through the entire country...This invisible government has millions of dollars at its disposal. It

¹ Gus Tyler, Organized Crime in America: A Book of Readings, University of Michigan Press, Ann Arbor, 1962, p. 3.

issues its own edicts. It enforces its own decrees. It carries out its own executions. It collects its own revenues."

In 1967, a Presidential Commission described organized crime as a society of criminals "working within structures as complex as those of any large corporation¹ subject to laws more rigidly enforced than those of legitimate governments."

Donald Cressey, in his 1969 publication, Theft of the Nation, concluded that in the United States, criminals have managed to put together an organization² which is at once a nationwide cartel and a nationwide confederation.

In short, the structure of organized crime had been changed from isolated local and regional enclaves of criminal operators with limited horizons to a national confederation of experienced businessmen with their own code of conduct, operating in their own sphere of influence outside the law.

In the literature on organized crime, the single, most important influence in the evolution of the current structure of the underworld appears to be the experience acquired by bootleggers during Prohibition. Bootleggers changed not only the structure of organized crime but the manner and methods of operation.

The Imprint of the Bootleggers

Background. A number of aspects of the bootleg business are important if³ one is to understand the impact of bootleggers on gambling. First, is the background of the leading bootleggers. With Prohibition, legitimate liquor dealers largely abandoned the business. Thus, bootlegging - an illegal enterprise - was seized by newcomers, mostly young men born in the last decade of the 19th century. For the most part, they were men who had been raised in the nation's urban slums,

¹ President's Commission on Law Enforcement and Administration of Justice, supra.

² Donald R. Cressey, Theft of a Nation: The Structure and Operations of Organized Crime in America, Harper Colophon Books, New York, 1969.

³ For general discussion, see Mark H. Haller, "Bootleggers and American Gambling, 1920-1950," in Commission on the Review of the National Policy Toward Gambling, Gambling in America, Appendix I., U.S. Govt. Printing Office, 1976.

sons of the Jewish and Italian immigrants who had arrived in the late 19th century. They were restless, ambitious men and bootlegging provided a rapid upward mobility. Haller cites data on leading bootleggers in major cities that indicated some 50% were of Jewish background, 25% of Italian background, and the rest primarily Irish¹ and Polish.

This relative youthfulness of successful bootleggers would have a long-range impact on the underworld's leadership. When Prohibition ended in 1933, many of the wealthiest bootleggers were still young men with nationwide contacts and no small business acumen. They looked for investments and many of them simply moved into gambling enterprises as the older gambling leaders retired or died.

Violence. A second aspect to consider is that of violence. Before Prohibition, those entrepreneurial activities often classified as organized crime were conducted in American cities with relatively little violence. But bootlegging was a violent activity. One factor in that violence was the role of hijacking. Illegal liquor had to be moved in bulk from points of origin in the interior or from ports, to warehouses, processing plants, and finally to speakeasies. In many cases, contact boats carried the bulk from ships offshore. Quick profits could be made if someone else's contraband could be intercepted and seized in transit. Some bootleggers got their start by such hijacking and most groups which had built a systematic bootlegging operation were forced to protect their goods against hijackers. Such operators were also willing to use violence and the cost of hiring gunmen to protect shipments was a routine business expense. Gradually, as bootleg groups expanded and competed with one another for territory and supplies, violence became part of their competitive strategy. Violence became institutionalized, and only those willing to counter violence with violence could normally achieve success.

¹ Haller, Journal of Social Issues, supra, p. 90.

Organization. Still another aspect of bootlegging was the complex local, regional, national and international ties that developed among bootlegging entrepreneurs. A large urban area was a market for not only large quantities of alcoholic beverages but also/a large variety of types, ranging from malt beverages to varieties of whiskies, gins and wines. The result was that one organization had to develop contacts with other organizations, within cities and in other cities, as well as with manufacturers and exporters outside the country.

As Haller sums it up:

Bootleggers, in short, were businessmen with money to invest in a variety of legal and illegal activities. They were young, ambitious, and disproportionately the products of Jewish and Italian slums. Often they were men who had personally used violence and, in any event, were accustomed to the use of violence in business affairs. Despite their backgrounds, leading bootleggers had experienced the broadening that comes from far-flung business interests and wide travel. By the time of Repeal, they had interests in real estate, night clubs, hotels, race tracks, and legitimate liquor distributorships as well as gambling.

The Development of Gambling Enterprises

Several reasons are cited to explain the bootleggers' attraction to gambling. Some were gamblers before Prohibition. Many were sports fans who bet on sports contests. To the extent that they sought to invest in gambling they had a number of resources. Their acceptance of violence could be a convincing persuader in other interests. They had established regional, national and international ties. Their associations and experiences gained during bootlegging could be transferred to other enterprises where they could be difficult rivals or accommodating partners. Finally, they had established relationships with police and politicians so that their influence sometimes exceeded that of traditional gamblers.

Although several possible relationships between bootleggers and gamblers could be described, the most common development consisted of partnership arrangements. Partnerships allowed a sharing of risks and provided a means for bringing

together persons with different resources, including capital, managerial ability, and influence with police or politicians. The evolving relationships of such "partnerships" were both diverse and complex and never static. Haller describes¹ them in some detail but for the purposes of this report, we shall discuss only the impact on casino gambling.

Former bootleggers were instrumental in the development of regional gambling centers. One example is that of Newport and Covington, Kentucky, two communities just across the Ohio River from Cincinnati. These sites had a long history of illegal gambling, servicing Cincinnati while reflecting the betting and racing culture of Kentucky. In 1941, a largely Jewish group of former bootleggers from Cleveland began to buy into the area's casinos. Local gambling entrepreneurs retained partnership interests and continued as managers. Years later, when the Cleveland partners invested in Florida and Las Vegas, the local managers in Covington and Newport were given investment opportunities and management posts in the² larger and more lucrative gambling enterprises.

Another region attracting investment by former bootleggers was Florida. Bootleggers were no strangers to the Sunshine State. After the Coast Guard had virtually shut off illegal imports along the Atlantic Coast from Boston to Cape May, ports in Florida became major import centers. Bootleggers set up contact points in Florida and eventually they invested their profits and vacationed there. Hotels, nightclubs and casino gambling were obvious targets of opportunity for bootleg profits. Meyer Lansky, a former New York bootlegger, became a key financial figure in race track investments in the 1930's and in the development of casinos in Florida³ after World War II.

¹ Haller, Journal of Social Issues, *supra*, pp. 93-108.

² For further discussion, see H. Messick, The Silent Syndicate, New York, N.Y., 1967, and Secret File, New York, N.Y., 1969. See also, Special Committee to Investigate Organized Crime in Interstate Commerce, Senate, 82d Congress, Hearings Part VI and Part XII.

³ See Estes Kefauver, Crime in America, Garden City, New York, 1951, pp. 77-81, and H. Messick, Lansky, New York, N.Y., 1971.

Cuba also attracted the bootleg fraternity. Led by Meyer Lansky, former bootleggers promoted Havana as a regional gambling center. With the blessing of Cuban leader Fulgencio Batista, Lansky operated a casino in Havana's Hotel Nacional and also leased a local race track. During the 1950's, there was a major expansion of gambling in Havana, drawing high rollers from Europe as well as America. Among those promoting the lush casinos were Lansky, Moe Dalitz from the Cleveland organization¹ and Phil Kastel of New Orleans.

Former bootleggers and their associates scored their greatest success in Las Vegas. In 1931, when the nation's economy was flat from the impact of the Depression, the Nevada Legislature legalized several forms of gambling in an effort to stimulate the local economy and raise new revenues. Las Vegas, which had been a sleepy community of about 5,000, was still in the shadow of Reno, nearly five times its size. Las Vegas's population grew somewhat during the 1930's due to the construction of nearby Hoover Dam. During World War II, when the Army Air Force converted the city's airport to a training base, population reached 20,000. Following the war, however, the economic outlook seemed bleak until a number of fortuitous events coincided. The rapid development of long range aircraft during the war set the stage for a new era of commercial air travel which would become even more dramatic with the development of commercial jets in the 1950's. Las Vegas could be reached easily from any part of the nation. Local businessmen had already begun a campaign to develop the downtown area as "Glitter Gulch," reaching for the Southern California market. But the real catalyst in the transformation of Las Vegas to the national gambling center was Benjamin "Bugsy" Siegel, a bootlegging associate of Meyer Lansky. Siegel had been involved in Las Vegas gambling for several years as the West Coast representative of Trans-America, a wire service. Using this leverage, Siegel offered wire service only to those casinos that offered

¹ H. Messick, Lansky, supra.

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him a partnership in their bookmaking operations. Siegel, however, had a bolder vision. Las Vegas, he prophesied, could become a gambling mecca with the introduction of a lavish casino-hotel complex. This concept required financing by wealthy gambling entrepreneurs and Siegel was able to obtain the financial backing of former bootleggers that included Meyer Lansky, Frank Costello, Hy Abrams, and several others. Siegel's vision became a reality in the construction of the Flamingo which, after a shaky start, soon became a financial success. With this success, over the following decade, former bootleggers from the Mid-West and the East Coast began investing their own money and Teamster Union pension funds into the construction of more casinos on what has now become Las Vegas's famous "Strip."²

Haller's thesis, however, is that these former bootleggers, whose roots are in organized crime, played the crucial role in the development of regional gambling centers and that the flowering of Las Vegas and its casino industry was the apex of their efforts:

In the development of regional gambling centers in the 1930's and 1940's, the ex-bootleggers clearly played a crucial role. Las Vegas may be seen as the culmination of their endeavors. The Las Vegas strip came to gaudy fruition through the investment of millions of dollars by ex-bootleggers from Boston, New York, New Jersey, Florida, Cleveland, and Chicago. Their economic activities in Las Vegas were foreshadowed in a variety of earlier joint endeavors in Newport, Kentucky, Florida, and Havana. Their success in these relatively large-scale joint enterprises were rooted in their experiences as bootleggers. Bootlegging had required cooperation and joint investments. The economic skills learned in the 1920's were transferred to the cooperative investments in race tracks, casinos, and other gambling activities in the period after prohibition. Even here, however, the role of old-time gamblers remained considerable for the development of regional gambling depended upon the recruitment of a skilled management cadre. It was in the promotion of regional gambling centers, at any rate, that ex-bootleggers most clearly placed their stamp upon the history of American gambling.³

¹ D. Jennings, We Only Kill Each Other: The Life and Bad Times of Bugsy Siegel, Englewood Cliffs, N.J., 1967; Jerome H. Skolnick, House of Cards: The Legalization and Control of Casino Gambling, Little, Brown & Co., Boston, Mass., 1978.

² E. Reid and O. Demaris, The Green Felt Jungle, New York, N.Y., 1973; Jennings, supra; Skolnick, House of Cards, supra.

³ Haller, Journal of Social Issues, supra, pp. 110-111.

Recent Perspectives

Notwithstanding agreement among most criminologists and sociologists that there is a nationwide organization with international ties referred to as organized crime, there is a considerable difference of opinion as to the internal structure and relationships of that organization. Various theories are offered as to what factors determine leadership, arrangements and strategies.

Views on Internal Structure of Organized Crime

Much of the debate among commentators on the internal structure of the "mob" has focused on the role of the organization of criminal syndicates in achieving security, profit and invulnerability. Several views have been advanced to explain this role. One view, offered by a prominent sociologist, Joseph L. Albin¹, stresses the role of secrecy, violence and national organization in organized criminal expansion and entrenchment. Albin suggests that American criminal syndicates evolved from an organization rooted in Sicily, to a modern nationwide, centralized structure with a ruling body. An adherent of this theory, Donald R. Cressey², writes that the syndicates are organized in an arrangement of roles and tasks not unlike a bureaucracy: a hierarchy of authority, delegated tasks to the lower levels, channels of communication that are clearly delineated, all within a scheme of rules of procedure. Cressey further defines this organization as a national alliance of two dozen closely-knit "families" which, through a commission composed of leaders of the more powerful families, control most of the nation's illegal gambling, loansharks and narcotics dealers, and have a virtual monopoly on some legitimate businesses.

¹ Joseph L. Albin, The American Mafia: Genesis of a Legend, Appeltan-Century Crofts New York, N.Y., 1971.

² Cressey, Theft of a Nation, supra.

Another perspective, also cited by Albin, would put the emphasis, not on a centrally coordinated organization, but rather on the "families" kinship ties within small, locally-based organizations. According to this view, the syndicates evolved from social conditions and factors within American society, and with varying degrees of cooperation with one another. The local political machines are utilized to promote a system of direct payoffs.

Still another observer, Francis A.J. Ianni, sees the criminal syndicates¹ as traditional social systems based on cultural values which have nothing to do with modern bureaucratic virtues.² Leadership positions are allotted for family standing and by tradition; members are bound together by a close interpersonal network featuring mutual trust built upon previous associations.

In a third perspective, economist Thomas C. Schelling emphasizes the³ entrepreneurial features of the organized criminals. According to Schelling, the wealth and power of the organized criminal group results from certain economic and political strategies and arrangements; the import of monopolizing markets, the willingness to use violence, and the provision of protection.

To these much discussed views, sociologist John J. Dombrink proposes a fourth perspective to consider which he describes as an "outlaw capitalist" per-⁴spective. According to Dombrink, the image of the organized criminal entrepreneur as a stigmatized, socially dangerous actor is, after the pursuit of profit, his most important concern. Like the legitimate businessman, the organized criminal entrepreneur seeks to conduct his business with minimum governmental interference

¹ Francis A.J. Ianni, Black Mafia: Ethnic Succession in Organized Crime, Simon and Schuster, New York, N.Y., 1974.

² Francis A.J. Ianni and Elizabeth Reuss-Ianni, A Family Business: Kinship and Social Control in Organized Crime, Russell Sage Foundation, New York, N.Y., 1972.

³ Thomas C. Schelling, "What is the Business of Organized Crime?", 20 Journal of Public Law 71, Emory University Law School, 1971.

⁴ John D. Dombrink, Outlaw Businessmen: Organized Crime and the Legalization of Casino Gambling. Ph.D. Dissertation, Graduate School, University of California, Berkeley, 1981.

and regulation. Thus, he will structure his dealings so as to secure his enterprise. Attempts by organized criminals to achieve nonintervention by criminal justice agencies have traditionally taken the form of corruption of public officials. But organized crime has long been concerned with achieving a certain level of respectability reflected by its post-Prohibition strategy of diversification into legitimate and marginal industries. Dombrink offers evidence that the crucial respectability-enhancing event in his outlaw capitalist perspective is the transformation of the organized criminal from "racketeer" to economic criminal and the achievement of a certain level of respectability which gives security to the criminal enterprise. Further, he argues, when the key attributes of the organized criminals recede, e.g., when white collar crime supplants activities such as providing illegal goods and services, and the propensity to use violence, then "the organized criminal, by standard definition, disappears."¹ Destigmatization occurs by an interaction between so-called "front men" (businessmen with alleged underworld associations) and corporations (be they mob-controlled, or having roots in organized crime, or dummy corporations) and the "upperworld" political and economic forces.

Dombrink traces the slow but steady transformation of the organized criminal from bootlegger to the economic criminal. Such a transformation has had a number of beneficial effects: the protection of organized criminal holdings from appropriation; an easier course for those involved to avoid detection, punishment and a criminal label; a greater facility for legitimate businessmen to deal with the organized criminal without fear of being branded with the same stigma; and an enhancement of the legitimacy of the organized criminal entrepreneur.²

Thus, according to Dombrink, the organized criminal can survive precisely because the values he espouses are often in concert with those of the larger society, and because, based on this convergence of values, he is able to enter into

¹ Ibid., p. 89.

² Ibid., p. 92.

business and political arrangements with upperworld interests, and derive security from those relationships. The organized criminal is thus perceived as "an outlaw businessman, an entrepreneur who operates under different constraints than legitimate businessmen, but nonetheless (who) considers himself a businessman and a legitimate economic and political force."¹

As explained by another observer, a lawful business represents the ultimate step toward legitimacy, while concurrently it facilitates illicit activity. A legitimate business acts as the ultimate reward of respectability, an outlet for the investment of illicit capital, a front behind which criminals can operate with decreased visibility and probability of prosecution, a front for illegal services and merchandise, and a source of authority in society because the syndicate has economic power.²

To defuse the organized criminal image, the organized criminal entrepreneur thus seeks an arena where the "respectable" organized criminal entrepreneurs, the legitimate businessmen, and influential politicians are able to interact. Dombrink asserts, "The legal casino industry is one example of such a meeting."³

Organized Crime and Legitimate Business

The President's Commission on Law Enforcement and Administration of Justice heard testimony by an official of the Internal Revenue Service to the following effect: Out of 113 of the country's top organized crime figures, 98 had interests in 159 legitimate businesses, broken down as follows:

¹ Ibid., pp. 92-93.

² Jean C. Segter, An Analysis of Organized Crime's Infiltration of Legitimate Business, Sam Houston State University, Institute of Contemporary Collections and the Behavioral Sciences, Huntsville, Tex., 1974.

³ Dombrink, supra, p. 90.

Casinos and nightclubs	32
Land investment and real estate	17
Hotels and motels	14
Vending machine companies	10
Restaurants	8
Trucking and transportation	8
Manufacturing	8
Sports and entertainment	3
Wholesale food distribution	7
Money lending	<u>6</u>
Subtotal	118

Other businesses (41 in number) included funeral parlors, picnic groves, advertising companies and florist shops.¹

Thomas J. McKeon, in his examination of organized crime's incursion into
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legitimate business, argues that organized crime has managed to persuade large segments of the public generally, and the business community in particular, that its existence and threat are exaggerated. Often, this has caused a callous disregard by businessmen about the people with whom they deal. That tolerance has aided the cause of racketeers. As the report of the President's Commission noted, "Too often, because of the reciprocal benefits involved in organized crime's dealing with the business world, or because of fear, the legitimate sector of society helps the
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illegitimate sector."

Because of the bonanza that is offered by skimming, the underworld prefers to invest in businesses with a large cash flow. McKeon describes typical investments as those in "vending machines, juke boxes, cigarette machines, ticket
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agencies and licensed gambling casinos." Increasing interest has also been shown in stock market brokerage houses: they are desirable places to invest money, securities are attractive objects for theft; and control of a brokerage firm offers an easy opportunity to manage stock swindles.

¹ President's Commission, supra, p. 7.

² Thomas J. McKeon, "The Incursion by Organized Crime Into Legitimate Business," 20 Journal of Public Law 117, 120, Emory University Law School, 1971. Mr. McKeon was Executive Vice-President and General Counsel for Intertel, Inc., when he authored this article.

³ President's Commission, p. 190.

⁴ McKeon, supra, p. 121.

In addition to the general motives mentioned by Dombrink and Segter, supra, a variety of purposes are cited by McKeon as reasons for organized crime's infiltration of legitimate businesses: to earn money - often through ruthless elimination of competition; to cloak illegal activities; to obtain marketing agencies for counterfeit products; to obtain outlets for illegal profits; to obtain a "front" for social acceptability; to achieve power; ^{and} to provide tax ploys (payroll padding, false invoices, fraudulent insurance losses). On a less sinister but still criminal note, McKeon adds: to provide a legal, accountable source of income for tax purposes; to provide an open base of operations from which to deal with political and public figures; and to facilitate laundering of illegal income for tax ¹ avoidance and personal investments.

In the late sixties, the House Committee on Government Operations listed four principal techniques employed by organized crime to seize control of legitimate businesses: (1) outright purchase of proprietary interests, using money illegally gained, (2) acceptance of an interest in a business as payment of its owner's debts, (3) foreclosure on usurious loans; and (4) various forms of extortion, coercion and ² unfair business practices.

Perhaps the last technique is better explained by a labor official, concerned not only with organized crime's threat to the legitimacy of a labor union, but also to its threat to the entire business structure. Gus Tyler, an official with the International Ladies Garment Union, in his remarks at a symposium on organized crime, asserts that the underworld doesn't merely "come in to corrupt a union, they come in to take over the unions." ³ "A union will call a strike because it is fighting for higher wages but the underworld will call a strike because it is ⁴ interested simply in extortion." Tyler argues that, without resistance, not only

¹ Ibid., p. 123.

² House Report, No. 1574, 90th Cong. 2d Session, p. 7 (1968).

³ Tyler, transcript of remarks at p. 145 of "Discussion," 20 Journal of Public Law, supra.

⁴ Ibid.

labor unions, but political parties and businesses will be devoured by organized crime. To illustrate the insidious manner in which the forces of organized crime operate, Tyler gives the following example:

Take a legitimate businessman, a small manufacturer. He has one hundred employees. His business isn't doing badly. Someone comes to him and says to him, "You need a partner." He says, "I don't need a partner," "You're making a mistake, Buddy, you do need a partner, and we're ready to put some money into the thing too, legitimate." He says, "I don't want a partner."

Within a year he's practically dead. Why? The trucks that were bringing the raw materials to him came late, broke down, and never had the full shipment. The truck that was carrying his finished order some place else, had the same difficulties. He had endless internal labor trouble. His salesmen out in the field were bought off by other companies, or they were frightened away from this company. Retail outfits rejected him outright under new pressures they were facing. When he had to get some financing, he was in extreme difficulty. He couldn't get it from his usual sources. All of this happened to him.

A year later the man comes to him. He says, "I told you you needed a partner, didn't I?" By the way, nobody's been hit yet. Not a single act of violence has been performed here. The factory owner says, "Yes, I need a partner. I'm in trouble." Some money is invested. Trucks arrive on time. Trucks leave on time. A union is formed; it's a specialized kind of a union that causes no labor trouble. The salesmen are the best; stores that never knew about the company suddenly discover it; mysterious forces are pushing his stuff all over the country. The guy's doing well. Three years of this thing, and the guy has established a perfect record--and by the way the new money doesn't show at all. The new owners aren't even there; they're not on the listing; they're silent; they're way in the background; nobody even knows about them except this guy, that's all. He has a chance to go public, so he goes public. The stock opens at two dollars, and his new partners, who are not partners of course, speak to some of their buddies. They're all over the country; they're all over the world; and they begin to purchase the stock. It goes from two to forty. Now they're making a lot of money.

They can do one of two things at this point. One, they can take out of the company whatever they want and let it die. That happens over and over again. They can do another thing. They can decide this company is worth moving, and they expand. There's a competitor down the street, he has a fire. Now there's a new labor supply that's available in the community. You can expand your labor supply cheaply because these people are out of work. All kinds of things begin to happen at all sorts of levels.

Now, this is not preying on this company. In effect, that factory belongs to a group, a group that can influence shipping and transportation and raw materials. If they want, they can pilfer coming in; if they want, they can pilfer coming out. They handle sales, and effect retail stores, and own the retail stores in exactly the same kind of way. If one examines any penetration of a given sector of the economy, this is rather a typical thing.¹

McKeon's closing admonition is that losses to legitimate businesses by organized crime's infiltration cannot be measured:

There is no way to assess losses caused by a racketeer monopoly of the garbage, or meat packing, or vending machine industry in a city or state. There is no way to evaluate losses caused by kickbacks which go undetected from suppliers to employees of purchasers. No one can judge the cost of having a public or private building built by a racketeer construction company, or of having a legitimate company deal with racketeer labor unions.²

Prior to the enactment of the Organized Crime Control Act of 1970,³ the Federal Government was seriously handicapped in its efforts to thwart organized crime's incursion into legitimate business or to cope with the type of pressure detailed by Tyler above. With the passage of that law, the Congress prohibited (a) the use of income derived from corrupt practices to acquire a controlling interest in an enterprise engaged in or affecting interstate commerce, (b) the use of corrupt means to acquire or maintain such an enterprise and (c) conducting the business of such an enterprise by corrupt means. Very strong penalty provisions were included in the act and coupled with existing anti-trust laws, the Hobbs Act, and state quo warranto proceedings, governments' ability to counteract organized criminal efforts to move into the legitimate business sector/^{was} considerably strengthened.

All of this however, requires a will and a purpose on the part of government and the support of the citizenry in exercising such controls. If, on the other hand, the will of the government and the people can be compromised, whether for/^{good} reasons or bad reasons, there are inevitable consequences that can be expected, particularly when the kind of business involved is legalized casino gambling.

¹ Ibid., pp. 145-146.

² McKeon, p. 139.

³ Public Law No. 91-452, 84 Stat. 922.

Accommodation and Destigmatization

In a state with few physical resources, and virtually no economic advantages, Nevadans long ago legalized a historically-sanctioned casino gambling activity and in so doing, grandfathered into the industry several casino operators with criminal backgrounds. Gambling, however, had been on a relatively small scale until "Bugsy" Siegel appeared on the scene in the late 1940s. Backed by Eastern organized crime capital, Siegel saw the promise of Las Vegas as a tourist and gambling mecca and began development of the first lavish casino-hotel, the Flamingo. Siegel, however, was murdered by underworld associates who suspected him of misuse of syndicate funds and thus did not live to see his prediction come true. But other organized criminal interests were already following Siegel's lead and with their influx into the state came a new economic prosperity for Nevada residents. Interestingly, the most powerful ruling class group in Southern Nevada at the time was the Mormon Church which prohibited gambling (as well as drinking and smoking) by its members. Still, Mormons needed work to survive, and in Siegel and his associates, the Mormons saw the advantages of a considerable capital investment and an expanding payroll. Thus, Mormons in Las Vegas adopted a tolerant attitude toward the notorious figures in the casino industry which has continued to the present:

Nevada Mormons seem relatively untroubled by the inconsistency between the church's attitude toward gambling and participation in the industry. Above all, Nevada Mormons seem to be practical. Like everybody else, they understand that without casino gambling many of them would lose their jobs; those who do not participate directly in the industry as well as those who do.¹

Aside from the obvious proof that organized criminal interests will invest in legal casino gambling, the experience in Nevada demonstrates the various non-gambling interest groups' ability to accommodate themselves to the legalized

¹ Skolnick, House of Cards, p. 334. Skolnick points out that the church does not permit its members to engage in any of the actual games but they are allowed to work on the management level in the casino or in the hotel and restaurant management. Mormons are said to form a substantial segment of employees in the gaming industry.

casino industry and its notorious operators. As Dombrink puts it:

It shows how those who can find an activity or proprietors morally repugnant can still manage to find a way to allow for the activity in their moral equation.

Such accommodation is not limited to any single group in the state. Officials in Nevada were faced with the same problem. They had to wrestle with the fact that the casino industry, though tainted with the presence of criminal elements was nevertheless the source of substantial revenues as well as the principal employer in the state:

The dilemma of the state of Nevada, in the face of the organized criminal investment into a major industry in that state, has been to maintain the revenue generated by the gangsters while dissociating the state from their disrepute. In doing so, the state officials of Nevada have been forced to adopt a policy which judged the organized criminals who moved to Nevada by another moral calculus than one might in the state where the same persons were directing illegal activities.

In Nevada,...we have the best case study of the interdependence between organized crime, a legitimate but stigmatized industry, and influential public officials.¹

The effect of grandfathering was to permit certain interests within the state who might otherwise have been excluded. With the threat of federal intervention those interests were driven to a closer relationship with the state officials in a mutual protection alliance to preserve the industry. In Dombrink's view, Nevadans were thus forced to adopt a new moral standard, or measure of respectability, which did not gauge a person's moral character by what he had done elsewhere, but by how he operated within the confines of Nevada:

It has been in the interest of Nevada authorities - and pre-Castro Cuban and Bahamian officials as well - to be captured by those forces it regulates, even those with tainted reputations, since it depends upon those operators for the state's economic base.²

¹ Dombrink, supra, p. 133.

² Dombrink, supra, p. 137.

Skolnick, in his definitive study of legal casino gambling in Nevada, also points out the effects of the casino dominant economy on the politics of the state:

In Nevada legal casino gambling does more than help - it is essential for survival. No politician could be elected to high office in the state of Nevada who ran on a platform of making casino gambling illegal. It is the single largest industry in the state, employing nearly a third of the work force.¹

Grant Sawyer, former Governor of Nevada, provides further evidence of the political dependency upon the casino industry:

...gaming is the most sensitive, important aspect of Nevada's government. *** The state...is...dangerously dependent on the revenue generated by gaming taxes. *** The gaming industry was, and still is, the major source of political campaign funds for all offices.² (emphasis added)

Daniel R. Lee, in his financial analysis of the legal casino gambling industry, notes that in Nevada, this overwhelming effect of casinos on the state's economy has a direct effect on state controls of the industry:

...the economy of Nevada is so dependent on the gaming industry that the controls are often difficult to enforce. The Aladdin hotel is perhaps the best example of this. The Gaming Commission decided in March, 1979 that its owners should not be licensed and ordered that the property be sold. The owners procrastinated for over a year, refusing several purchase offers. The Board hesitated to close down the hotel because of its 2,500 employees and the negative publicity that would ensue. Finally, the casino license was revoked in July, 1980 and the complex was sold some two months later to a group whose reputation has recently been questioned in the press.³

Government Attitudes

The Kefauver Committee, which conducted an exhaustive investigation of criminal activities in the 1950s, issued a very severe indictment of Nevada gambling and the state's control of gaming.⁴ In the Committee's final report, much

¹ Skolnick, House of Cards, supra, pp. 9-10.

² "Gaming Regulations: A View From the Government Sector," Third Annual Gaming Conference. The Gaming Industry-1981. Sponsored by Laventhol and Horwath (a premier accounting firm with extensive experience in the gaming industry).

³ Daniel R. Lee, Investing in Gaming, Research Report, Drexel Burnham Lambert, March 1981, pp. 50-51.

⁴ Kefauver, Crime in America, supra.

dismay was expressed at Nevada's grandfathering into the industry several operators who had felony records in other jurisdictions. The consistent federal view of Nevada gaming, expressed in the Kefauver Committee report, the McClellan Committee rackets hearings and the Kennedy Administration, was that Las Vegas functioned as organized crime's bank and that state authorities, directly or indirectly, were in¹ complicity with the wrongdoers.

According to these federal investigatory bodies, Nevada gaming operations relied upon hidden investors -- organized criminal syndicates who controlled a piece of a given casino, and received, as payment or dividend, skimmed profits from the casino. By allowing unlicensed owners to direct operations, these activities were in violation of Nevada law and by evading taxes on the casino skim, they were in violation of federal law. The skimmed profits were viewed as a means of subsidizing other illegal operations.

Yet, the threat of organized crime, in the eyes of Nevada's gaming officials, argues Dombrink, is not so much the skimming of profits or revenues, but that the stigma attached to the operators by the federal government will cause problems of financing and continued operation of the casinos:

...in Nevada the state has to be concerned with the image of the industry, and has shared the concern of the operators that they be portrayed as businessmen, rather than criminals.²

In defense of Nevada's regulation of casinos, the Commission on the Review of the National Policy Toward Gambling, created by Congress in 1970, reported in 1976 that on the basis of independent research and hearings it conducted, it reached a number of conclusions about casino gambling that run contrary to many of the traditional viewpoints. In brief, the Commission found that:

¹ Robert F. Kennedy, The Enemy Within, Harper and Row, New York, N.Y., 1960, p. 229.

² Dombrink, supra, p. 138.

1. Although organized crime once was a significant factor in some Nevada casinos, its influence has declined considerably and consistently during the past 10 years. In comparison with the situation 15 years ago, the presence of organized crime in Nevada today is negligible.

2. Stringent accounting regulations and sound internal control mechanisms effectively prevent most skimming of casino profits by owners. Theft by casino employees and customers occurs more frequently.

3. Nevada's gambling cannot be held solely, or even primarily, responsible for the higher-than-average crime rates in Reno and Las Vegas. Gambling is one of the many factors that affect crime rates in these cities.

4. While successful casinos provide a high rate of return on investment, many are only marginally profitable, and a few operate at a loss.

5. Although gambling taxes and fees constitute a significant percentage of Nevada's State Income, both New York and California earn more from taxes on parimutuel wagering alone than Nevada collects through assessments on casinos. In terms of total State revenue from all forms of gambling (including lotteries), Nevada ranks only sixth.

6. It has taken Nevada many years to develop and refine its system of casino regulation, a process that is still ongoing. On the whole, State regulations are sufficiently stringent and enforcement is effective.¹

In a later passage, the Commission stated that although few would claim that the influence of organized crime has been completely eradicated in Nevada, most authorities agree that at least it has been significantly reduced.² Nevada authorities believe that the transformation of casino-hotel ownership and management from former syndicate - controlled operators to major corporate structures such as Del Webb, Hilton, MGM, the Hughes properties and others has weeded out most of the undesirables.

Yet, even while the Commission's report was being digested by champions and critics of casino gambling, new scandals in Nevada involving organized crime

¹ Gambling in America, Final Report of the Commission on the Review of the National Policy Toward Gambling, Washington, D.C., 1976, p. 78.

² Ibid., p. 80.

were being investigated, as will be discussed below. While some would argue that these latter developments are only isolated exceptions, the contrary view is that they are further confirmation that organized crime is unyielding in its tenacity and determination to control or influence casino operations.

Complexity of Casino Ownership and Hidden Interests

As indicated in the foregoing discussion, the founders of Las Vegas' gambling industry were predominantly organized criminal investors, who had operated profitable illegal operations elsewhere, and invested in Las Vegas as a natural extension of their illegal interests.¹ Whether surreptitiously or in the open, organized criminal interests prospered for years in the Nevada gaming industry, as illustrated in one account provided by an associate of the notorious Meyer Lansky:

"...differences were ironed out peaceably in those early days in Vegas. For instance, when they were building the Stardust Hotel, which was the largest one then, Dalitz complained that it would give too much competition to his Desert Inn. The man behind the Stardust was Antonio Stralla, or as we called him Tony Cornero, an old bootlegging friend. It looked like an old-fashioned war might break out, but Meyer suggested a meeting and we all flew in for it. I was there with Dalitz, and his right-hand man, Kleinman, was there, and Longie Zwillman and so forth. We worked out a deal that gave each group an interlocking interest in each other's hotels, and our lawyers set it up so that nobody could really tell who owned what out there."²

Lawyers are as skillful in structuring ownership of the modern casino-hotel complex as indicated by the following description provided by I. Nelson Rose, Esq.,³ who has written with authority on control of legalized casino gambling:⁴

As to your specific inquiry - it would be very difficult to determine the amount of union investments in casinos without doing an extensive investigation, possibly requiring subpoena power. I

¹ For a detailed description, see, e.g. Jerome H. Skolnick, House of Cards: The Legalization and Control of Casino Gambling, Little, Brown & Co., Boston, Mass., 1978.

² Dennis Eisenberg, et al, Meyer Lansky: Mogul of the Mob, Paddington Press, New York, N.Y., 1978, pp. 266-267, quoting Doc Stacher.

³ Letter of I. Nelson Rose, Esq., Haddick, Reinwald, O'Connor & Marrack, Box 3199, Honolulu, Hawaii, to Mr. Richard Censullo, Science Resource Office, Room 312, State House, Boston, Mass., 02133, Sept. 21, 1981.

⁴ See "The Legalization and Control of Casino Gambling," 8 Fordham Urban Law Journal 245 (1980).

do not believe that every union investment must be made public, and even if it were so, there are a number of obstacles preventing a clear picture of the extent of union investments in casinos. Although many casinos are now connected with hotels run by publicly owned corporations, the casinos themselves are often separate legal entities, not publicly traded.* These closed corporations, partnerships, and joint ventures do not have to file reports with the S.E.C. and can have complicated legal structures hiding the real owners from public view. Other arrangements, such as unrecorded loans, sale and lease-back arrangements, and overlapping layers of corporate shells would prevent even the casino commissions from knowing accurately exactly who owns what.

* * * * *

As an example of how complicated casino investments can get, look at the recently opened Playboy Casino/Hotel in Atlantic City. Playboy Enterprises, Inc., through its wholly owned subsidiary, Playboy of New Jersey, Inc., created a general partnership known as Playboy-Elsinore Associates to operate the casino/hotel. The general partners are a New Jersey limited partnership known as Playboy of Atlantic City (owns 54.26%) and Elsub Corporation, a New Jersey corporation (owns 45.74%). Playboy of New Jersey, Inc., is the sole general partner of Playboy of Atlantic City (owns 84.29%) and the limited partners are four individuals known only as the Whitner Group (owns 15.71%). Elsinore Corporation has similar arrangements for its half of the financing. There are also long term employment and loan agreements, including guarantees of the general partnership's obligations.

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Daniel R. Lee, in his financial study of the legal casino industry, also discusses the problem of hidden interest. After tracing the colorful history of the notorious Flamingo Hotel in Las Vegas beginning with Bugsy Siegel, Lee cites several other casinos with underworld connections:

The Flamingo is not the only Las Vegas hotel with such a notorious history. The Stardust, Fremont, Desert Inn, Silverbird, Tropicana, Rivera, Dunes and the Sands have all been rumored to have been developed or owned by underworld figures at one time or another. Recent FBI wiretaps have hinted at similar underworld connections at the Aladdin and perhaps even Casears Palace. Smaller casinos are not immune. For example, a recently murdered New Jersey underworld figure has been shown by the FBI to have had a secret ownership position in the small Jolly Trolly casino in Las Vegas.²

¹ Daniel R. Lee, Investment in Gaming, Research Report, Drexel Burnham Lambert, New York, March, 1981.

² Ibid., p. 46.

* Rose's reference does not apply to New Jersey where separate ownership of a casino in a casino-hotel complex is not permitted.

G. Michael Brown, then Director of the New Jersey Division of Gaming Enforcement, at a 1981 gaming conference, while pointing out that the historical association of casino gaming and organized crime has not entirely disappeared, also referred to the hidden ownership of the Jolly Trolley casino:

Before assuming my present job, my last assignment with the Division of Criminal Justice was the prosecution of eight New Jersey organized crime figures. During the two-year investigation and ensuing four-month trial, evidence was presented of hidden ownership of the Jolly Trolley Casino in Las Vegas and attempts to skim money from that casino by New Jersey organized crime members. In October 1981, three New Jersey businessmen were convicted of federal racketeering charges accusing them of forming a secret partnership with New Jersey organized crime figures who acted as fronts for the Jolly Trolley Casino in Las Vegas.¹

With reference to two of the casinos which Lee cites above where there are "rumors" or "hints" of underworld connections, federal probes have confirmed such ties. On August 6, 1979, the Nevada Gaming Commission, by unanimous vote, ordered the Aladdin Casino-Hotel in Las Vegas closed - the first major casino to be closed in the history of Las Vegas gambling. A federal jury had found the corporation and four individuals guilty of allowing hidden control of the casino by a criminal interest. The Aladdin operation, suspected for some time but beyond proof until the FBI produced incriminating wire-tap evidence, was not the only incidence of hidden management. Also implicated in the FBI transcripts was the Tropicana Casino-Hotel. In faltering economic condition for years, the Tropicana had previously been on the brink of closing. "When a casino is financially shaky and seeking emergency investors to bail it out, Mafia families inevitably become interested in developing nominees as investors who could pass a superficial investigation."²

¹ "The Gaming Control Environment Past, Present and Future: The View From New Jersey." Third Annual Gaming Conference, The Gaming Industry, 1981. Sponsored by Laventhol and Horwath.

² Jerome H. Skolnick and John D. Dombrink, "The Limits of Gaming Control" 12 Connecticut Law Review 762 (1980), at 766.

Today, the problem of hidden interests continues to require extraordinary vigilance and very substantial investment of time and funds on the part of regulatory authorities if casinos are to be free of underworld infiltration. Lee offers this description of the nature of the problem:

Forty years ago, mobsters freely invested in casinos under their own names. As Las Vegas became more notorious and the Federal government and Nevada authorities tightened their surveillance and regulations, the underworld went underground. Underworld figures found licensable frontmen for their casinos and continued business as usual. Events in the 1960s and 1970s showed that many underworld figures maintained hidden interests in at least several of the casinos. It is these hidden interests that cause the most concern for both regulators and investors.

The system is relatively simple and straightforward. For example, suppose the Fabulo Hotel Corporation runs out of money during the construction of its \$100 million hotel. It borrows \$25 million from John Doe, a notorious underworld character, in order to complete the hotel. In theory, John Doe now owns 25% of the hotel. However, John Doe will not qualify for a casino license and cannot be listed as an owner of record. Since he is not a legal owner, he cannot receive dividends. Hence, another method must be found to reimburse Mr. Doe. Typically, the solution will involve skimming. Skimming is simply setting aside part of the casino win each day and sending it in cash to Mr. Doe. In Nevada there are no regulatory officials or surveillance in the counting rooms, so the skimmed revenue just disappears without being recorded. The size of the skim will depend on the original agreement with Mr. Doe, but will usually involve an exorbitant rate of return on this investment. Since unrecorded revenue results in an unrecorded tax liability, it is often the tax authorities who show the greatest concern over the hidden interests and skimming operations.¹

No better description of the facility and frequency of skimming operations can be had than those provided by mobsters themselves. In telephone conversations intercepted and recorded by the FBI, one Kansas City mobster, referring to skimming, said, "Its like robbing candy on a baby, if you wanna know the truth".² In another intercepted conversation, Frank Balistrieri, reputed Milwaukee mob boss, referred to skimming proceeds that would restore his financial health: "By Monday or Tuesday, I'll have my transfusion again."³

¹ Lee, supra, pp. 46-47.

² War on the Mob, Wall St. Journal, January 25, 1983.

³ Ibid.

Indeed, a study group of the Internal Revenue Service, in a 1980 report, in commenting on both Nevada and New Jersey control systems designed to prevent cheating, concluded that "these systems of internal control are not effective to prevent skimming by owners and upper management or any persons with authority to initiate and change existing rules and procedures."¹

With hindsight, Lee observes, the underworld's participation in casinos is not surprising. Casinos can be profitable investments for ill-gotten monies. They are also a natural adjunct to the businesses of illegal gambling and prostitution.²

Because of potential unknown connections, virtually every company in the gaming industry, Lee asserts, has a certain licensing risk:

In addition to the possibility of losing or not receiving a casino license, an investor in a company with high licensing risk may be more vulnerable to illegally skimmed profits, unfavorable business dealings, or perhaps even outright security swindles.

While licensing risk can be minimized, it can obviously never be eliminated. Five gaming analysts could devote an entire month to researching the business dealings of a particular company without finding anything that is even suspicious. Then the company might apply for a New Jersey casino license and the Division of Gaming Enforcement (DGE) would begin one of its massive investigations. The Caesars World investigation, for example, took two years, cost \$1.2 million, and produced 4,800 pages of testimony. The Bally investigation took 2-1/2 years and cost over \$2.5 million. If there is any reason to reject a license applicant, the DGE is much more likely to find it.³

Lee warns investors not to speculate in casino companies that do not provide a substantial corporate history to support their optimistic projections. The experience, background and source of capital of the casino company, Lee states, should be well documented and available. To illustrate the risks of investment in stock of a company that is not well known, Lee chronicles the record of the Recrion and Argent corporations during the past decade:

¹ Final Report of the Internal Revenue Service Unique Compliance Committee, Subcommittee on Casino Unreported Income, July 31, 1980.

² Lee, supra, 46-47.

³ Ibid., pp. 47-48.

In the early 1970s, Recrion owned the Stardust and Fremont hotels and its common stock was listed on the American Stock Exchange. In 1973, the company offered to exchange \$38 principal amount of its 10% debentures for each share of common stock. Management stated that although no negotiations were in progress, it hoped that this transaction would help in arranging the eventual sale of the company. One million shares were tendered and the debentures were also listed on the American Stock Exchange.

Seven months later, the Argent Corporation acquired Recrion, paying \$44 a share in cash and assuming the debentures. At the time, Argent seemed to be a promising new corporation, wholly-owned by a reputed financial wizard named Allen Glick. Argent also owned the Hacienda and Marina hotels at one time and had several minor real estate holdings.

A closer look revealed that Argent had very little equity and had borrowed as much as \$93 million from the Central States, Southeast, and Southwest Areas Pension Fund (Teamsters).

The investors in Argent and Recrion discovered to their dismay the true meaning of licensing risk. Published estimates indicate that as much as \$3.5 million was skimmed from the Stardust from 1974 to 1976. Over \$7 million was loaned to Allen Glick at very low interest rates at a time when the company was in poor financial condition. As of August 31, 1979, Argent's total stockholders' equity was under \$3 million, versus total liabilities of \$137 million.

Argent and Allen Glick have been under investigation in the past few years by the Internal Revenue Service, the Federal Bureau of Investigation, the Securities and Exchange Commission and the Nevada Gaming Commission. The FBI alleges that Allen Glick was the frontman for underworld crime interests from Chicago, Kansas City and Milwaukee. The debentures were delisted from the American Exchange in 1977. In 1979, the Nevada Gaming Commission revoked the gaming licenses of both Argent and Allen Glick, forcing the sale of the casinos. Another young, unknown corporation named Trans-Sterling purchased Argent's casinos in 1979 for \$2 million cash, assumption of \$92 million in debt, and future payments of approximately \$66 million. The principal behind Trans-Sterling is Allan Sachs, formerly Vice-President of Recrion and General Manager of the Stardust. Today, the debentures continue to trade on the Boston and Philadelphia exchanges under the Trans-Sterling name.¹

Daniel Lee's foregoing description of the Argent-Recrion transaction is from the viewpoint of an investment analyst. Steven Brill, an investigative

¹ Ibid., 48-49. Allan Sachs is also the subject of an FBI investigation as is discussed in this report, infra.

journalist, looks at the same transaction with less detachment. In his book, The Teamsters, Brill devotes 10 pages to the cast of characters and the plot to skim the casinos. Allen Glick, who in Lee's passage above, is referred to as a "reputed financial wizard," is, in Brill's account, an opportunist whom the mob viewed as a perfect cover tool for its proposed bilking of the casinos.¹ Brill introduces Glick as a well-educated young man (Ohio State University and Case Western Reserve Law School) who returned from Vietnam as a decorated army helicopter pilot and entered the real estate business in San Diego. There Glick quickly rose from a modest-salaried salesman to co-owner of a large real estate company called Saratoga. His interest in Saratoga, worth millions on paper, was acquired for a \$2,500 note. There followed a period of questionable land ventures, during which he received substantial financial support from one Tamara Rand, wife of a prominent San Diego gynecologist. Mrs. Rand, as will be indicated below, would pay a dear price for that association.

Through an old friend, Glick learned of an opportunity to buy the Hacienda casino-hotel in Las Vegas which he financed with a \$2.3 million loan from Saratoga (then headed toward bankruptcy). Glick's next interest was in acquiring the King's Castle casino-hotel near Lake Tahoe. At this point, in 1973, he was put in touch with Allen Dorfman who exercised control over Teamster Pension Fund loans and who had long ties to organized crime.² The deal never materialized because the Nevada Gaming Control Board, alerted to Glick's proposal to employ a Dorfman associate to run the casino operation, indicated to Glick that it would not approve the purchase.

The following year, 1974, the opportunity to buy the Recrion corporation developed. According to Brill's account, the Chicago mob had intended to acquire Recrion through Morris Shenker, former lawyer for James Hoffa, but because of dissension among Teamsters' officials, Shenker had to withdraw. Glick was then

¹ The Teamsters, Pocket Books, New York, N.Y., 1978, pp. 237-246.

² Dorfman, convicted on December 15, 1981, of trying to bribe United States Senator Howard W. Cannon of Nevada, was slain in Chicago on Jan. 20, 1983. Law enforcement authorities describe it as a gangland execution designed to silence Dorfman, who, it was feared, might cooperate with federal authorities.

contacted by Todd Derlachter who represented Shenker and a Teamsters Fund loan was arranged. When Glick filed a statement with the Securities and Exchange Commission, he indicated that he paid a \$421,000 finder's fee to Derlachter for the Fund loan. Brill's sources say that the finder's fee actually went to Shenker to assuage his feelings. Dorfman then approved the loan for \$62.7 million for Glick's purchase of Recrion, the corporate owner of the Stardust and Fremont casino-hotels. Brill's account also mentions that Glick took over an additional \$12 million in Fund loans previously made to the Stardust and Fremont plus another \$32 million in loans for Fund-financed ventures in California. In December 1974, Glick's Argent company was lent another \$25 million.

After acquiring Recrion, Glick hired Frank "Lefty" Rosenthal to take control of all gambling operations at the casinos on a 10-year, \$250,000/year contract. Rosenthal, according to the Nevada Gaming Control Board, had long ties to organized crime and was a friend of Tony Spilotro, an overseer for the Chicago organization in Las Vegas. According to Brill, the FBI evaluated the arrangement as follows: Dorfman was the banker, Spilotro the Chicago overlord, Rosenthal the manager of the skim, and Glick the "front" who was allowed to run the hotels but was instructed to keep clear of the casinos. The plan, law enforcement officials theorize, was to skim the casinos until they were bankrupt at which time the Fund would foreclose, the Teamsters would own Argent and then look for a buyer to start the loan process all over.

Although Daniel Lee, in an excerpt quoted above, refers to published estimates that as much as \$3.5 million was skimmed from the Stardust between 1974 and 1976, a recent Wall Street Journal article states that Nevada investigators have found that in an 13-month period in the mid-1970's, Chicago, Kansas City and Milwaukee families received more than \$7 million skimmed from slot-machines alone¹ at Glick's Stardust, Fremont, Hacienda and Marina casino-hotels.

¹ War on the Mob, January 25, 1983.

The public image of Glick, however, was indeed that of a financial wizard. But, by 1975, Mrs. Tamara Rand, who had invested heavily in Glick's Saratoga company with expectations of sharing in anticipated profits from the casino acquisitions, realized that Glick had misled her. When Mrs. Rand consulted her lawyer and threatened to go to the SEC, Glick complained to his Las Vegas associates. Shortly thereafter, Mrs. Rand, while sipping a cup of tea in the kitchen of her home was visited by a gunman who shot her five times, gangland style. For Glick it was the mob's message that there are ways of dealing with persons who pose a threat to its investment.

Lee stresses that although the Argent-Recreation episode is clear evidence of the risks involved in dealing with casino companies, it should not be implied that all gaming companies have underworld ties. Indeed, he adds, "companies such as Argent are the exception rather than the rule." To the best of his knowledge, Lee comments, companies such as Hilton, MGM, Harrah, Elsinore, Greentown Bay and several others "have never been shown or rumored to have hidden interests." Others, such as the Flamingo and Golden Nugget, through changes of ownership, appear to be free from underworld connections. Still, Lee has a lingering doubt:

Based on the available information, the author of this report would rate the licensing risk of any of these companies as being relatively small. But then, he is the first to admit that he has not conducted any multimillion dollar investigations.¹

On a more optimistic note, the financial analyst points to the extensive and thorough license investigations carried out in New Jersey as having a positive effect on an investor's assessment of a company's licensing risk. The New Jersey investigatory procedures are not only revealing the depth of the licensing risk but also are reducing the uncertainty of the risk in each company. Because many suspicious connections are being brought into the open by the Division of Gaming Enforcement's process, Lee feels that New Jersey's processes "may result in a 'cleaner' industry, where investors can rely on DGE investigations rather than rumors and be relatively confident that the licensing risk of 'approved' companies is minimal."²

¹ Lee, supra, p. 49.

² Ibid.

PART 3. ORGANIZED CRIME AND ATLANTIC CITY

Keep your filthy hands out of Atlantic City.
Keep the hell out of our state.

Governor Brendan Byrne's message to organized crime at Atlantic City ceremony following signing of the Casino Control Act, June 1977.

The mob probably hasn't laughed so hard since Capone found a new way to celebrate Valentine's Day.

Don Diglio, columnist for Las Vegas Review-Journal in article on Governor Byrne's remarks.

The foregoing quotations provide a zesty introduction to an article in a New Jersey publication summarizing the activities of organized crime in Atlantic City since casinos were introduced.¹ But the quotations are more than a journalist's use of spice to season a story. They reflect both the hope and the cynicism held by many observers of the casino gambling scene with respect to efforts designed to control the influence of organized crime.

Setting the Lines of Hegemony

In early 1981, the Chicago Tribune reported that at an underworld conclave held in a Philadelphia restaurant some 13 months earlier, representatives of the foremost Cosa Nostra families in America reached an agreement giving Chicago families control over the rackets in Las Vegas in return for their consent to stay out of the rackets in Atlantic City.²

The assembly was attended by members of five New York families: Carlo Gambino, Joseph Bonnano, Vito Genovese, Thomas Luchese and Joseph Columbo; the Angelo Bruno family of New Jersey; and Chicago aides of mobsters Anthony Accardo and Joseph Aiuppa. This group represented seven of the nine families that reportedly make up the national Cosa Nostra commission which, according to informants,

¹ Michael Pollock, "Atlantic City Watch - A Family 'Resort,'" New Jersey Reporter September 1982, p. 6. Pollock took a leave of absence from the Atlantic City Press to develop a series of articles for the New Jersey Reporter.

² Ronald Koziol, "Chicago mob control of Las Vegas told," Chicago Tribune, February 22, 1981.

resolves jurisdictional disputes and grievances, decides major policy issues and ratifies new bosses.

From the viewpoint of the racketeers, the arrangement made sense. Las Vegas, although an open city for gangland activity, had long drawn the attention and presence of the Chicago underworld. In giving up the open city status in Las Vegas, the East Coast mobsters were shutting the Chicago family out of Atlantic City and the lucrative rackets that legalized casino gambling had spawned there.

According to the Tribune article, information on the meeting was provided to the FBI by two inside informants. The sole purpose of the meeting apparently was to determine how profits from the New Jersey gambling interests and attendant legitimate side businesses would be divided.

While such information cannot be confirmed, there is, as the article reports, corroborative evidence of (a) increased activity by Chicago mobsters in Las Vegas as reported by the Las Vegas police, and (b) special tribute paid by East Coast Mafia figures to Anthony Spilotro, an overseer for the Chicago mob in Las Vegas, as stated in an IRS affidavit filed in the federal district court in Las Vegas.

Further charges of the continued presence of Chicago underworld figures involved in casino operations in Nevada were revealed in statements contained in FBI affidavits filed in federal courts in Wisconsin and Nevada. In June 1980, an FBI affidavit filed in Milwaukee included allegations that Chicago and Milwaukee¹ mob families continued to share in monies skimmed from two casinos in Las Vegas.

An FBI affidavit filed in Las Vegas, unsealed by the United States Magistrate on January 4, 1982, contained information from eight FBI informants describing an alleged relationship between two Las Vegas gambling figures, Allan D. Sachs and² Herb Tobman, and the Chicago mob. Sachs and Tobman operate the Stardust, Fremont

¹ Las Vegas Sun, January 5, 1982.

² Ibid.

and Sundance casinos in Las Vegas. According to the affidavit, the two owners were figureheads for the Chicago La Cosa Nostra and were responsible for providing skim monies to the mob from the casinos. The affidavit charged Stardust manager Lou Salerno and assistant manager Freddie Pandolfo as doing most of the skimming for Sachs. Also involved in the skim, according to the affidavit, were two casino hosts, two former Stardust executives and a Chicago Teamsters Union leader.

It should be borne in mind that some of the allegations contained in the affidavits filed by federal authorities are based on testimony of informants who may or may not be reliable witnesses in a court of law. As noted elsewhere in this report, Melvin Weinberg, one of the principal informants used by the FBI in the ABSCAM probe was a convicted felon who perjured himself in testimony before a grand jury, in trial court proceedings and before a United States Senate Committee. Further, since government affidavits are frequently filed with the federal court for evidentiary purposes connected with grand jury proceedings, it should be understood that a federal grand jury functions as a prosecutorial weapon of the United States Attorney's office.¹ Persons charged with illegal activities in such affidavits may not be aware of the existence of the charges, and if subpoenaed before a grand jury, do not have the benefit of counsel during their testimony. Government witnesses providing testimony before grand juries cannot be cross-examined, since only government lawyers are present. While this is not to say that the substance of such affidavits are without merit, the reader should be cautious in evaluating information that is wholly controlled by the federal prosecutor.

However, if the aforecited government accusations of recent activity by Chicago racketeers in Las Vegas are supportable, they lend credence to the Tribune story of a trade-off of jurisdictional rights between the Chicago and East Coast families concerning casino-gaming related activities. For one branch of the under

¹ Application of Credit Information Corp. of New York, U.S.D.C., N.Y., 457 F. Supp. 969 (1979).

world to concede such a profitable source of income as is represented in Las Vegas to a rival organization, can certainly be interpreted as further evidence that the casino presence in New Jersey is looked upon by the East Coast mob as a new well from which to draw an abundant and steady flow of riches. In the parlance of the oil industry, the Atlantic City gambling well is considered to be a gusher.

A New "Family" Resort

La Cosa Nostra came to town, Michael Pollock writes, "trying to make Atlantic City a 'family resort.' 'Gambling,' after all, 'is a business that the mob understands.'"¹

Along with the mob came hundreds of law enforcement and investigative personnel from several agencies, intent on insuring that the casino industry itself does not wander afield and watching for any attempt by the mob to further its interests within the industry. Law enforcement agencies involved in these activities include the Casino Control Commission and the Division of Gaming Enforcement with a combined effort of 925 employees, including 265 investigators; the Atlantic County Prosecutor's office; the Federal Bureau of Investigation with about 100 agents; the Drug Enforcement Administration; the Federal Bureau of Alcohol, Tobacco and Firearms; the Internal Revenue Service; the Department of Labor; and most recently added, an Atlantic City field office of the United States Attorney for New Jersey.²

Nevertheless, despite this formidable army of investigators, and all-out efforts to prevent infiltration and manipulation of casinos by way of unions and service suppliers, law enforcement officials say mobsters have succeeded in broadening their influence by the following actions:³

¹ Pollock, supra.

² "Mob Alliance to Share Casino Riches Reported," New York Times, September 1, 1982.

³ Ibid.

1. Infiltrating some legitimate businesses that provide casinos with food, entertainment, vending machines, linen, cleaning services and limousines.
2. Gaining control of Local 54 of the Hotel Employees and Restaurant Employees International Unions, the largest of the unions representing casino employees...The union denies being under mobster control.
3. Organizing casino security guards, a force that stands watch over vast sums of cash. Since state law requires a full complement of guards on duty before the casinos can open for business, this group has extraordinary leverage.
4. Extorting hundreds of thousands of dollars in payoffs from the construction industry as insurance against strikes and vandalism during the hectic race to build the casinos following the opening of Resorts International which was taking in a half million dollars daily.
5. Swindling casinos out of nearly \$10 million in a credit scam involving obtaining chips on credit, converting them to cash, and walking away from the debt.
6. Expanding traditional organized crime pursuits of loansharking, drug traffic, prostitution, sports betting and numbers games.

Before relating some of the specifics of organized crime activities in Atlantic City, it should be stated that as of the autumn of 1982, law enforcement officials were confident that organized crime had been kept out of the ownership and management of the casinos. There is no evidence of known criminal elements within the top management of the casinos in Atlantic City. As an FBI agent in Las Vegas was quoted, there is a striking difference in the way the mob operates in Las Vegas and in Atlantic City:

"Out here, we have a situation where the organized crime people are actually in control of several casinos. They're on the inside looking out. In Atlantic City, organized crime seems to be on the outside looking in."¹

However, there is abundant evidence that organized crime has infiltrated the periphery of the casino industry in Atlantic City. The lure of all of the riches pouring into Atlantic City "has led every organized crime family on the

¹ Ibid., p. B4.

east coast to target Atlantic City for infiltration."¹

Former New Jersey Attorney General John J. Degnan, commenting in 1980 on the increased activity of organized crime in Atlantic City, has been quoted:

"But is organized crime present in Atlantic City? Yes. Is it there in greater force than it was before casinos were passed? Yes. Are they trying to buy liquor licenses? Yes. Are they trying to get into ancillary industries? Yes. Is there an increase in prostitution? Yes."²

As of mid-1982, according to law enforcement officials, Atlantic City is an "open town," i.e., a city that is not monopolized by any of the competing East Coast crime families.³ One view is that the major crime families of New York and Philadelphia have formed an alliance to share the wealth.⁴ George E. Wilson, head of the Camden field office of the U.S. Justice Department's Strike Force on Organized Crime, is quoted as saying, "They've set up a kind of free-trade zone."⁵ The arrangement permits the mobsters to concentrate on illicit enterprises without the distractions of intramural strife. "It's just a matter of good management," asserts⁶ Wilson.

Law enforcement officials have identified the following "families" involved in current Atlantic City operations: the Angelo Bruno family of Philadelphia, the Carlo Gambino family of New York and the Vito Genovese family of New York. Additionally, there is evidence of the presence of three lesser New York families: Joseph Columbo, Thomas (Three Finger Brown) Luchese, and Joseph Bonanno. No family boundaries have been drawn, and no family appears to have a monopoly in any field⁷ of legitimate business.

¹ Mike Mallowe, "Spilled Blood for Atlantic City Gold.", Life, February 1981. Mallowe is a Philadelphia editor specializing in crime reports.

² Report of Attorney General Robert Abrams in Opposition to Legalized Casino Gambling in New York State, May 20, 1981, p. 11.

³ Pollock, supra.

⁴ New York Times, September 1, 1982, supra.

⁵ Ibid.

⁶ Ibid.

⁷ Ibid.

The Bruno Family: The Struggle to Survive

The Bruno family's presence in Atlantic City pre-dates the casino era. As far back as 1959, Angelo Bruno was firmly in control of not only Philadelphia and its suburbs but also of most of central and south New Jersey and all of the Jersey shore, including Atlantic City. But as far as the Philadelphia mob was concerned, Atlantic City existed on the periphery of its operations - "a largely¹ unimportant, though profitable backwater province." Angelo Bruno and his associate, Philip Testa, spent their summers in affluent suburbs of Atlantic City during the period when the seashore city lost its appeal and other crime families had no interest in the decaying resort.

Although the Bruno family had long been dominant in Atlantic City, other crime families were allowed by Bruno to operate in the Bruno domain. The Gambino family was permitted to set up a network of pizza parlors in southern New Jersey² and to buy a disco club in Atlantic City. The state, however, denied a license for the latter operation. In addition, the Genovese family made an aborted attempt to market a health care plan to Teamsters Local 331 which has organized some commissary workers at Harrah's Casino.³ The Genovese family, under aging Frank "Funzi" Tieri, had long considered labor enforcement anywhere in New Jersey to be its private preserve. It looked upon the Bruno family with considerable contempt and, as reported by one crime observer, viewed the Bruno mob "as little more than⁴ provincial bandits 'who couldn't even get arrested outside Philadelphia.'" ⁴

Relations between the Bruno and Gambino families rested on a lifelong friendship between Angelo Bruno and Carlo Gambino, the latter described as "the⁵ last capo di tutti capi to truly deserve the title Boss of All Bosses..." Thus,

¹ Mallowe, supra.

² Pollock, supra.

³ Ibid.

⁴ Mallowe, supra.

⁵ Ibid.

a small branch of the Gambinos was allowed to operate with impunity in Bruno's own South Jersey territory for years. But this arrangement caused much jealousy and ill feeling within the Bruno organization. When the casinos came to Atlantic City, it was inevitable that both families would act to seize the prizes that were offered. Bruno quickly discovered he had enemies within his camp as well as outside. Whether it was a disaffected faction of his own gang or "button men" from one of the rival families, Angelo Bruno became the first casualty in a deadly war for control of Atlantic City. On March 21, 1980, a lone assailant shot Bruno in the back of the head while the victim sat in a car outside his home, talking to his bodyguard.¹ According to one law enforcement theorist, Bruno's execution was merely a "corporate restructuring of the Mob" to insure a fairer distribution of profits among the families.² Bruno, as one writer explains, made the mistake of getting there first and taking the most.³ In any event, it signalled a change in mob tactics and what has followed suggests that the battle of the spoils has not yet been resolved. The gang killings related to the mob struggle to control Atlantic City were summarized in a New Jersey publication as follows:

Angelo Bruno, Don of La Cosa Nostra in Philadelphia for 22 years. Murdered by a shotgun blast to the back of his head while seated in a car in front of his home, March 21, 1980; Antonio "Tony Bananas" Caponigro, Bruno's consigliere and Alfred Salerno, Caponigro's driver. Both found stuffed in plastic bags and dumped in the South Bronx, April 18, 1980; John "Johnny Keys" Simone, Bruno cousin and lieutenant. Found in a field in Staten Island, Sept. 19, 1980; Frank Sindone, Bruno's loan-sharking chief. Stuffed in plastic bags, wrapped in a blanket, found in a South Philadelphia alley, October 30, 1980; John McCullough, a labor leader (Roofers Local 30) involved in attempting to organize casino security guards in Atlantic City. Shot six times in the head, in his home in the presence of his wife, by a hit man who entered under the pretext

¹ According to the Chicago Tribune, February 22, 1981, Bruno's unwillingness to keep other mob families out of New Jersey following an underworld conclave setting jurisdictional boundaries led to his murder some three months after the mobsters' meeting. Other theories are offered as will be mentioned in this text, infra.

² Mallowe, supra.

³ Ibid.

of delivering Christmas poinsettias, December 16, 1980; Philip "Chicken Man" Testa, Bruno successor. Murdered by a bomb which exploded under the front porch of his South Philadelphia home, March 15, 1981; Harry Peetros, a Bruno loanshark associate. Shot and stuffed into the trunk of his Cadillac on a street in East Landsdowne, Pa., May 26, 1981; Steve Booras and Jannette Curro, friends of Peetros. Shot in a South Philadelphia restaurant, May 27, 1981; John Calabrese, suspected arsonist and burglar. Shot while walking in a South Philadelphia street, October 6, 1981; Frank Narducci, alleged chief of gambling in Bruno family. Murdered as he stepped out of his car near his South Philadelphia home, January 7, 1982; Vincent Pannetta, a convicted loanshark. Found murdered near his apartment, February 4, 1982; Dominick DeVito, an associate of Narducci. Found stuffed in plastic bags in the trunk of his nephew's car in South Philadelphia, February 25, 1982; Rocco Marinucci, a pizza parlor owner who was questioned by police in the Testa shooting. Found shot, firecrackers stuffed in his mouth, on the anniversary of "Chicken Man" Testa's slaying, March 15, 1982; Frank John Monte, shot while standing next to his Cadillac in South Philadelphia, May 13, 1982. In addition, there were attempts on the lives of Harry "Hunchback" Riccobene, a high ranking Bruno associate, who survived two separate shootings in Philadelphia in June and August of 1982 and of Salvatore Testa, son of Philip Testa, who survived a shotgun shooting in South Philadelphia.¹

Some police theorize that the bloody internecine struggle among mobsters began with an effort by the New York organized crime families to take absolute control of Atlantic City and to eliminate totally the Philadelphia organized crime families. Others suggest that Bruno's murder resulted in splitting the Philadelphia family into two factions and subsequent victims of the gangland war are believed to be the result of factional retaliatory strikes. Although Nicodemo (Little Nicky) Scarfo is said to be Bruno's successor as head of the Philadelphia family, some authorities say he takes his orders from New York.²

The Unions: "Family" Connections

According to Ralph Salerno, former Intelligence Division Chief of the New York City Police Department, and author of two books on the Mafia, the most serious threat from organized crime is corruption of public officials. Yet while the mob

¹ "The Gang That Could Shoot Straight," New Jersey Reporter, supra, pp. 10-11.

² Atlantic City Press, January 9, 1982.

can own a politician outright, it is more likely to act in a more subtle fashion and thus is more dangerous. The mob can influence an area's political leadership by controlling a union. Salerno argues that once in control of a union, the mob controls money in the form of dues, political pension funds and monies raised by political action committees. One of the most lucrative current operations, according to some investigators, has been infiltration into health and benefit plans for unions, and among the richest targets are said to be unions in Atlantic City.¹

But political and patronage influence are not the strongest weapons that a mob-controlled union can wield. A union can be a weapon to extort money from casino management. Some labor officials have argued that in Las Vegas the casinos have never had a serious labor problem and thus the threat of labor extortion is a red herring. But it is also a fact that the Teamsters' Central States Pension Fund which loaned millions of dollars to Las Vegas casino owners over the years is controlled by the mob.² Law enforcement circles refer to the Fund as La Cosa Nostra's "private bank." There was no labor unrest in Las Vegas, crime observers say, because the mob would not permit its investments to be jeopardized.

The Atlantic City scenario is quite different. As indicated above, it does not appear that the mob has been able to penetrate casino ownership or management. Yet, organized crime is able, if it chooses, to extort money from casino management in exchange for labor peace. Lieutenant Colonel Justin Dintino of the New Jersey State Police is quoted as saying, "The unions kind of have a hammer over management's head in the casinos. You're talking about businesses with a cash flow

¹ New York Times, March 22, 1982.

² See, e.g., Steven Brill, The Teamsters (1978) in which he provides detailed accounts of the use of Teamsters' Pension Fund loans to finance mob-controlled enterprises. Of related interest is the recent slaying of Allen Dorfman, who was James Hoffa's chief advisor on Pension Fund loans and who continued in that role with Hoffa's successors. On January 20, 1983, Dorfman was shot several times in the head by a masked assailant who escaped. Authorities believe that Dorfman, who was facing a prison sentence for a recent conviction, was silenced by the mob so as to prevent any cooperation with the law in return for a light sentence.

of half a million dollars a day. A place like Bally's is paying \$40,000 a day interest on loans. That's a big nut. They can't afford a work stoppage. The potential for extortion is great.¹

The New York Times has also reported that, in testimony on July 8, 1982 before the Casino Control Commission, Joseph Salerno, a former associate of Nicodemo (Little Nicky) Scarfo, reputed current head of the Bruno family, said that organized crime hoped "to own Atlantic City some day." Salerno, a former plumber in nearby Brigantine, N.J., also testified that Scarfo had offered him plumbing work at the Playboy Hotel and Casino, and that when he had asked Scarfo, "What about the union?" Scarfo replied: "Don't worry, we own the unions."²

In one account of official probes into union activities, Colonel Dintino is reported as being unconvinced that Local 54, the hotel and restaurant employees union, has not succumbed to outside pressure to sell labor peace to the casino industry.

"Ninety-nine percent of the unions are honest but organized crime seems to have a way of getting in and taking control of unions they have a particular interest in."³

Hotel and Restaurant Employees

The hotel and restaurant employees Local 54 represents more than a third of the nearly 30,000 employees of the nine casinos. New Jersey State Police, as reported in the New York Times, contend that this union is controlled by Nicodemo Scarfo through his close relationship with the union president, Frank Gerace.⁴ Robert B. Sturges, Acting Director of the Division of Gaming Enforcement (DGE) argued at hearings before the Casino Control Commission in 1982 that Local 54 is unfit to represent the casino workers because of Scarfo's influence and because several of the union's officials have criminal records. Although neither New Jersey nor federal law prevents former convicts from serving as

¹ New York Times, September 1, 1982, p. B4.

² New York Times, July 12, 1982, p. B2.

³ Donald Warshaw, "A Key Link in Casino Union Probes" The Sunday Star-Ledger, Newark, N.J., August 16, 1981.

⁴ New York Times, September 1, 1982.

union officials, a provision of the Casino Control Act permits the state, on several grounds that include involvement with organized crime, to deny a union the right to collect dues and to administer welfare and pension funds.

Subsequently, on September 28, 1982, the New Jersey Casino Control Commission found that three officers of Local 54 were associated with organized crime¹ and ordered the union to remove the officers or stop collecting union dues. In a 4-1 vote, the Commission found that Frank Gerace, president of the Local, and Frank Materio, grievance manager, were associated with Nicodemo Scarfo. Scarfo, as noted above, has been named by federal and state law enforcement agencies as boss of the Angelo Bruno crime "family" in Philadelphia and Atlantic City. In a 3-2 vote, the Commission found Karlos LaSane, a business agent, unqualified to represent casino employees, under provision of the Casino Control Act, because he was convicted in federal proceedings in 1973 of extortion while serving as an Atlantic City Commissioner.

In the majority opinion, the Commission stated:

"We have been presented with a clear picture of a dedicated group of lawbreakers, headed by Scarfo, who follow the activities of Local 54, have a longstanding relationship with and easy and frequent access to its leaders, and seek to exploit that relationship in order to advance their criminal activities."

Robert B. Sturges, the Acting Director of the DGE, who investigated and prosecuted the union in the hearing on the charges, stated:

This is the most important decision the commission has ever made, he said in an interview. Because the commissioners had to deal with the clear and present danger of organized crime in Atlantic City here and now and took the tough decision to meet the danger head on. Union officials were involved in organized crime and the commission has decided to make sure they no longer have any influence in a casino union or the casino industry.³

¹ New York Times, September 29, 1982, p. B28.

² New York Times, September 29, 1982.

³ Ibid.

Local 54 has been embroiled in a long battle with the state to prevent the Casino Control Commission from exercising jurisdiction over union activity. It argues that the federal government, through the National Labor Relations Act, has preempted control over organized labor. Thus, asserts Local 54, the state can¹ neither license nor prevent Local 54 from organizing casino workers. Law enforcement officials are concerned that Local 54's argument could prevail in the courts.

Security Guards

Of the nearly 30,000 casino employees, the security guards are of greater concern to the casinos and authorities. If the guards went on strike, it would not be a matter of trying to make do with supervisors and management substitutes because the law requires a full complement of guards.

There has been a continuing struggle to organize the casino security guards. The Casino Control Statute requires casinos to have a certain number of security guards in place each day before doors are opened for business. Thus, a security guard union would be in a position to shut down a casino.

Authorities are reported as saying that, so far, several groups have tried to organize the security guards, with each group having either men with criminal records or organized crime connections, or men who were convicted of felonies whom they sought to organize the guards.

The first attempt to organize the guards was by the late John McCullough, an ally of Angelo Bruno. McCullough, according to a statement attributed to Colonel Dintino of the New Jersey State Police, was the most powerful figure in Atlantic City as far as labor was concerned. McCullough was the man to see in settling² jurisdictional disputes which for a time plagued casino construction. McCullough

¹ Christian Science Monitor, February 18, 1981. The attorney for Local 54 has argued that the Casino Control Commission's probe of Local 54's activities is an unconstitutional attempt to regulate labor unions and an unconstitutional intrusion into an exclusively federal domain. Newark Sunday Star-Ledger, August 16, 1981.

² Warshaw, Newark Sunday Star-Ledger, supra.

sought to organize security guards at Resorts International and Caesar's Boardwalk Regency. At the same time, representatives of Local 2, from Long Island, New York, which authorities say is linked to the Genovese family, arrived in Atlantic City with the same intention. Under Bruno's protection, McCullough was able to thwart Local 2's intent but since then both Bruno and McCullough have been victims of gang slayings.

Local 2 was established by Daniel M. Cunningham who in June 1982 was convicted on federal charges of embezzling money from two parent labor organizations in New York and bribing a Department of Labor investigator. Local 2 is still active in its efforts to organize the guards with hopes to represent security guards at six of the nine casinos. It is presently being blocked by the National Labor Relations Board on the basis of Local 2's president, Daniel Cunningham, having been convicted of racketeering and bribery. An Assistant U.S. Attorney, Kenneth M. McCallian, has charged that Cunningham is a front for John "Sonny" Franzese, a member of the Columbo family and that it is Franzese who is behind the effort to¹ organize the guards. McCallian is also reported as saying that Cunningham had² previous dealings with members of the Gambino, Genovese and Bonnano families.

Another guard's local was established by three members of the Atlantic³ City Police Department. Two of those officers were convicted in 1981 of embezzling union money. In motions made during the trial of the police officers, the federal prosecutor alleged that the defendants' union - the Brotherhood of Law Enforcement and Security Guards Local 40B - was nothing more than a front for organized crime's efforts to recruit security guards in resort casinos. The link between Local 40B and the organized crime interests was the late John McCullough, business agent for⁴ the Roofers Local 30.

¹ Pollock, supra.

² New York Times, September 1, 1982, supra.

³ Atlantic City Press, January 1, 1982.

⁴ Mallowe, supra.

The third officer, in testimony at the trial, admitted that he had arranged a real estate deal for a Canadian crime figure whom he was supposedly investigating. During the trial, a federal official described the Local as a front for the Angelo Bruno family.

Ancillary Industries

Colonel Justin Dintino of the New Jersey State Police has also expressed concern that the mob may use its leverage over casino management (i.e., by its control of key unions) to force management to purchase goods or services from mob-infiltrated ancillary business. According to Dintino, the Gambino, Genovese and Bruno families have already infiltrated ancillary businesses in Atlantic City.¹

Under New Jersey law, a company with an annual business of at least \$50,000 with one casino, or \$150,000 with the industry, must be licensed. Several unsuccessful attempts by mob-influenced or mob-controlled ancillary businesses to obtain casino service licenses have been described by Martin Danzinger, while Acting Chairman of the Casino Control Commission.² Some of those applicants were denied licensure and the remainder withdrew their applications during the course of background investigations. But Robert B. Sturges, Acting Director, DGE, is reported as saying that investigators have found hard evidence of organized crime's infiltration into about a dozen companies that do business with the casinos.³

An example of the manner in which the mob can exploit opportunities presented by ancillary services is the cigarette vending operation. Mallowe, in his account of organized crime in Atlantic City, recounts Bruno's involvement with cigarette vending machines. For more than 20 years, through a company known as John's Wholesale Distributors, Inc., Bruno had made cigarette vending his personal

¹ Pollock, supra.

² Remarks at Fifth National Conference on Gambling and Risk Taking, October 23, 1981.

³ New York Times, Sept. 1, 1982.

specialty. Bruno's friend and business manager, Raymond "Long John" Martorano, was the brother of the president of John's Wholesale Distributors and Bruno claimed to be a salesman for the company. When, in a period of a few months, John's business in South Jersey increased by about 800%, the New Jersey State Commission of Investigation, upon inquiry, was told by Bruno that he was simply a dedicated salesman and Martorano a sharp businessman. John's had a license to operate in Atlantic City but when the license came up for renewal before the New Jersey Division of Gaming Enforcement, Bruno was aware that he probably could not qualify. Thus, he sought to work out an arrangement with Angelo Cibotti, an Atlantic City Police detective who had a partnership in a vending company seeking to contract for distribution of cigarettes in the casinos and hotels. The deal however did not materialize. According to Mallowe:

Over the next few years, Bruno attempted the same sort of maneuver again and again with almost every enterprise that had anything to do, however remotely, with the gambling houses or the hotels. He tried to muscle in through linen supplies, garbage collection, electronic surveillance equipment, storm doors and windows, heating oil delivery, wholesale meat sales, casualty insurance - and even through a company to provide armed guards in the counting rooms of the casinos themselves.¹

Credit Swindles

Also reported is the involvement of all five organized crime families in huge credit swindles. Swindlers operate in teams with one member first building up a reputation of always paying his losses but eventually when he has built a very substantial credit (as much as \$75,000) he appears to lose again but, by this time, has transferred most of his chips to his collaborators who then cash them in and disappear. According to T. Barry Goas, a deputy attorney general, swindlers have² cheated the casinos of an estimated \$10 million. Goas is quoted as saying that 34 persons, including one middle-level credit executive at Bally's and two at

¹ Mallowe, supra.

² New York Times, September 1, 1982.

Caesar's, have been indicted. Mr. Sturges of the DGE states that although the \$10 million swindled represents less than 1% of the more than \$1 billion casinos extended in credit last year, the sum is viewed by law enforcement officials as very substantial because it is going into the wrong hands and is used as seed money for¹ illegal operations.

A Never-Ending War of Attrition

No matter how diligent New Jersey authorities are in turning up evidence or organized crime connections among persons or companies seeking to become part of the casino operations, it is conceded by officials that the mob can, and probably will, bore its way into the picture. The most likely approach will be to obtain an interest or hold in an ancillary business that has been approved and is in operation. One measure to combat such an approach is for the state to concentrate its limited resources on the type of operation most attractive to organized crime. Spot checks of licensed businesses would be one measure of effective surveillance although it would be an irritable method in the eyes of the licensees which have to pay for the cost of the state's investigation. Michael Brown, former Director of the Division of Gaming Enforcement, says periodic spot checking is justified to maintain constant vigilance over the industry:

"You don't weed out a garden once and then grow a crop for the rest of your life. You weed out the garden every now and then."²

There is a fear among many casino regulators that as more time passes, media attention in Atlantic City will wane and eventually the underworld's chances of infiltrating legitimate businesses will increase in its favor. Once on the scene in a legitimate business, the crime family has a base of operations which offers further opportunities. In the words of one police officer:

¹ Ibid.

² Pollock, supra.

By the time they're finished with the unions, with the ancillary service industries, with loansharking the high rollers, the Mob won't even need the casinos; they'll have so much more going for them. All they have to do is stay on the fringes and nip away.¹

If these possibilities are to be dealt with effectively, there is a consensus among the authorities that more stringent federal and state labor laws are needed; more cooperation and less competition among various law enforcement agencies involved in the city are needed, and more efficient use of manpower in investigatory and regulatory functions is urgent so as to reduce duplication of effort. The task is indeed a formidable one and experienced officials are pragmatic enough to recognize the limits of their resources and abilities. As Colonel Dintino of the New Jersey State Police has observed:

You're never going to eradicate organized crime. I think the best we can hope for is to keep it controlled.²

¹ Quoted by Mallowe, supra.

² Pollock, supra.

CHAPTER VI. THE CONTROL AND REGULATION OF CASINO GAMBLING

Introduction

There are, as might be expected, varied opinions on the efficacy of casino gambling control mechanisms and procedures. Insofar as the control systems in Nevada and New Jersey are concerned, one view is that they suffer from serious operational and policy limitations.¹

Operational limitations stem from difficulties in licensing individuals, monitoring casino practices and overseeing a multibillion dollar industry. Compounding these difficulties are the increasingly formal administrative procedures which state agencies feel compelled to follow, as well as the inadequate resources at the disposal of the regulators.

Policy limitations are more serious where the purpose of legalizing casino gambling is to raise revenue; a state will face the dilemma of regulating an industry while at the same time encouraging it to prosper. Experience in Nevada and New Jersey has shown that where revenue raising is the purpose behind legalization, effective control often gives way to what is perceived as economic necessity.

Operational and policy limitations on casino gaming control continue to surface and cause failures in the regulatory system partly because the seeds of the regulatory failure were sown decades ago, such as in Nevada, and partly because the regulatory system itself is subordinated to the dictates of economics when recommendations of control authorities are at odds with revenue and economic development.

Discussion continues in many states as to the feasibility of legalizing casino gambling both for its potential benefit to a state's tourist industry and as a means of alleviating fiscal problems. In the course of that discussion, the issue of whether the undesirable aspects long associated with casino gambling can be controlled through regulation is generating intensive debate.

¹ Jerome Skolnick and John Dombink, "The Limits of Gaming Control," 12 Connecticut Law Review 762 (1980).

Basic differences over law enforcement and regulatory practices are being aired: how much stringency or how much leniency should there be in the interpretation of rules; how flexible can the regulators be without being captured by the regulated; how far can regulators go without adopting the role of managing the private sector.

At the same time, proposed statutory controls must address the issue of organized crime. Gambling operators are licensed because gambling attracts not only scoundrels and cheats, but sophisticated and organized criminals as well:

Nurtured in intrigue and willing to employ brutal coercion, sophisticated criminals are capable of systematically corrupting authority to gain positions of vast and hidden power.¹

Organized crime continues to employ the "fix," i.e., infiltration into regulated businesses through political corruption and payoff, to achieve political and economic power. But direct corruption and payoff aside, there is much evidence in American economic history of domination of administrative agencies by the very economic interests they are supposed to regulate. Legal scholars have demonstrated that when strict law enforcement values conflict with other important social imperatives such as economic stability or growth, the police imperative is often subverted as accommodations are made to the regulated interests.

At best, the control of legal casino gaming is an uncertain, even precarious enterprise. The larger the economic interest of the state in casino gambling, the greater is the outside pressure to erode the mechanisms of control. The nature of the casino gambling industry, with its legacy of skimming, involvement with organized crime, and disrespect for legal order, adds certain unique features and limits to gaming regulations.

The regulation of casino gambling, thus, hinges on precisely defining the role of the regulatory agency and contingent upon that definition, will foretell how economic, political and social factors may, singly or in combination, affect the capacity of administrative law to respond to the goals of legalization.

¹ Marshall v. Sawyer, 301 F. 2d 639 (1962).

The Dilemma of Casino Regulation

Casinos are viewed with great public skepticism. They are seen as threats to the legal and moral fabric of the society to which they are to be introduced. To allay this skepticism and render casinos acceptable, strict systems of control become necessary. For these control procedures to serve their purpose, participants in the casino industry must be screened and monitored to an extent unknown in virtually any other field.

Therein is the predicament facing the regulators. While these systems of control serve, in part, to engender the necessary public trust and confidence, they also serve to reinforce the basic skepticism that gave rise to their need in the first place.

Therefore, the very measures which allow casino gaming to become acceptable perpetuate the attitudes which have always made casino gaming suspect.

Image

There is little doubt that the public views casino gaming as an activity to be distrusted. The roots of their perception lie in the evolution of casino gaming in this country - the Bugsy Siegel and Flamingo story and the Las Vegas glitter domes of pleasure are a well established part of fact, not lore.

According to one authority, it is passing the buck for casinos to blame history or media hype for their present image. "They are part culprit themselves. Casinos engender the image. They perpetuate it. No one builds a gambling casino¹ that looks like a shoe store."

The proclivity to gamble in casinos is enhanced by the romance and the glitter and the sparkle of the environment. That aura carries with it all the conscious and subconscious implications of evil which casinos both rebuff and encourage. The irony, then, is that casinos provide an atmosphere that lures the public to what it expects it will encounter and yet generates a public distrust.

¹ Guy Michael, "Scammed If You Do, Scammed If You Don't." Public Gaming, September 1982, pp. 35-38, at 36. (Michael is former Deputy Director of Operations, New Jersey Division of Gaming Enforcement. He is now in private law practice).

Reality

The public's unique view of casinos cannot be wholly attributed to matters of image. Casinos are not the ordinary type of business. They deal in millions of dollars each day in cash transactions and record none of them. The reality of this kind of an operation makes for a public perception of a situation ripe for misbehavior.

"In events which could hardly be termed historical, hidden organized crime interests and orchestrated criminal activity have been identified in large casinos in Las Vegas including the Jolly Trolley, the Alladin(sic) and the Tropicana. Is the public wrong to read of these events and to have them color their view of casinos generally?"¹

Although casinos have no monopoly on bad press or on criminal revelations within their ranks, these factors seem to have a greater effect on casinos than they do on other forms of business.

Controls Essential

There is, then, a need for a casino control agency. It would not be possible to have a legalized casino industry without such an agency. It is the deserved and undeserved image which casinos possess that inexorably brings with it the need for the most elaborate systems of governmental control.

And such images also make necessary a regulatory system that is both effective and well known if it is to instill public trust and confidence. To satisfy the public need for a watchdog agency that is doing its job, visibility of the control apparatus becomes important. But such visibility, while serving as a continued reminder of control activity that will assure the public that casinos are being scrutinized, "also serves to solidify the image of casinos as businesses which need watching."²

¹ Ibid., 36-37.

² Ibid., p. 38.

An example cited by Guy Michael of how "this peculiar paradox manifests itself" is the decision of the New Jersey Casino Control Commission to condition its licensure of Caesar's Boardwalk Regency on the removal of Clifford and Stuart Perlman from all association with that company. The magnitude of that condition is underscored by the fact that the Perlman Brothers had founded the enterprise, as well as its parent operation in Nevada, Caesar's Palace, and were Chairman and Vice-Chairman respectively of the New Jersey company. The Commission's principal reason for insisting on its condition was the relationship between Clifford Perlman and Alvan Malnik, the latter a Florida lawyer publicly linked to organized crime. Perlman had ignored warnings from the State of Nevada to disassociate himself from Malnik. The New Jersey Commission found Perlman's attitude to be unacceptable and considered that attitude in evaluating his willingness to operate within the framework of the New Jersey regulatory scheme.

However, the Commission's rationale for excluding the Perlmans was not the aspect of the case that the press and media focused upon. Instead, the public was treated to another discussion focused on associations with organized crime.

Thus "by the very act of enforcing its strict standards of licensing and seeking - by such enforcement to demonstrate to the public the integrity of the industry it was regulating, New Jersey generated substantial publicity linking again, casinos to organized crime."¹ Accordingly, the result was, at least in part the reinforcement of that tainted image that the state's action was seeking to remove.

The troublesome aspect of this situation is that it is essentially unavoidable. The regulatory process, if it is to maintain and enhance the public trust, must make hard decisions that may sometimes seem at cross purposes. Regulatory agencies must make those efforts widely known if their vigilance is to have

¹ Ibid., p. 38.

any useful effect. In short, the governmental apparatus must establish itself as a real force in preserving such ideals as may be embodied in enabling legislation.

In the following sections, the regulatory systems of four jurisdictions, Nevada, Great Britain, Puerto Rico and New Jersey, will be described, followed respectively by commentaries on the strengths or weaknesses of each system.

Nevada

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The Nevada Gaming Control Act explicitly declares that it is the public policy of the state that the economy of Nevada and the general welfare of the state's inhabitants depend on the gambling industry.² No policy statement could make any clearer the bonds that exist between the regulator and the regulated.

Three agencies comprise the state's regulatory system: The Nevada Gaming Commission (hereafter, the Commission), the State Gaming Control Board (hereafter, the Board), and the Gaming Policy Committee (hereafter, the Policy Committee).

The Policy Committee is a part-time, advisory panel, chaired by the Governor, with members drawn from the general public, the gaming industry, the Commission and the Board. The Governor appoints the public and industry members while the Commission and Board name their respective members. The membership discusses matters of gaming policy and make recommendations that are non-binding on the Commission and the Board.³

The Commission is a five-member, full-time panel appointed by the Governor.⁴ No member may be actively engaged in gaming activities or have a direct interest in any gaming activity.⁵ The Commission shares licensing procedure with the Board but the Commission has final authority to require, issue, deny, limit, restrict, suspend or revoke a gambling license.⁶ It is also empowered to promulgate

¹ Nevada Revised Statutes, c. 463.010 through 463.726.

² Ibid., c. 463.130 (1)(a).

³ Ibid., c. 463.021.

⁴ Ibid., c. 463.022 through 463.029.

⁵ Ibid., c. 463.023 (3).

⁶ Ibid., c. 463.140 (2), c. 463.310 (4).

regulations related to the operations and finances of the licensees and to invoke disciplinary action against licensees or individuals who patronize the licensed establishments.¹

The Board is a three-member, full-time panel appointed by the Governor.² Three separate divisions function under the Board: administrative, fiscal and surveillance.³ The administrative division serves both the Board and the Commission with respect to administrative and clerical functions. The fiscal division performs economic research, auditing functions and collects taxes. The surveillance division is the enforcement and investigating arm of the Board. Basically, the duties of the Board are the enforcement of gaming laws and regulations, the investigation of license applicants, and the audit of books and records.

The statute imposes certain qualifications on the Board's membership.⁴ The Chairman, who also serves as its Executive Director, must have five years experience in public or business administration or broad managerial skills. One member, who serves as Fiscal Director, must be a certified public accountant or a public accountant with five years of experience. One member, who serves as Surveillance Director, is selected on the basis of education and experience in the fields of investigation, law, law enforcement or gaming.

An applicant for a license must first be investigated by the Board. The application form requires complete information and details with respect to the applicant's antecedents, habits, character, criminal record, business activities, financial affairs and business associates. A hearing and investigation follow in which the Board must be satisfied that the applicant is of good character, honesty and integrity, has no criminal record or reputation and in all other respects is qualified to be licensed or is found suitable consistently with the declared policy

¹ Ibid., c. 463.140 (2).

² Ibid., c. 463.030, 463.050 (2), 463.060.

³ Ibid., c. 463.075 (1) - (4).

⁴ Ibid., c. 463.040, 463.050, 463.060.

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of the state. The statute also requires that the license applicant have adequate
business experience in gambling and that the proposed financing be from a suitable
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source and be adequate for the entire proposed operation.

The burden throughout the licensing procedure is on the applicant to
prove his qualifications. A claim of privilege with respect to any testimony or
evidence pertaining to an application may constitute sufficient grounds for denial.

The Board may recommend to the Commission denial of any application for
a license; if it does so, the Commission usually follows the Board's recommendation.
However, the Commission may elect to override the Board's decision and approve an
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application. In such instance, a unanimous vote of the Commission is required.

The Commission has wide discretion in deciding who must
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license. While the statute requires certain parties be licensed, a license is also
required for whomever, in the opinion of the Commission, has the power to exercise
a significant influence over the licensee's operation of a gaming establishment.

The Commission and the Board are authorized to conduct a continuous super
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vision of a casino operation. Officials may inspect gambling premises and gambling
7
equipment and they may demand access to all papers, books and records. Unquali-
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fied persons are barred from any facet of a gambling enterprise. Transfer of
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ownership of a gambling operation is strictly prohibited.

1 Ibid., c. 463.170 (2).

2 Ibid., c. 463.170 (3).

3 Nevada Gaming Commission, Regulation 4.020.

4 N.R.S.c. 463.14Q (2), 463.220 (1), 463.220 (2) - (4).

5 Licenses are required of an owner of a gambling operation; key employees; a corporation, partnership or any form of business association; officers, directors and other key personnel, according to the Commission's judgment; manufacturers, sellers or distributors of gambling equipment or material. Employees, except bartenders, cocktail waitresses, waitresses and other persons who serve or prepare food or beverages, must obtain a work permit which may be revoked for cheating.

6 N.R.S.c. 463.140 (2).

7 Ibid., c. 463.140 (3) (a) and (b).

8 Ibid., c. 463.140 (3) (d).

9 Ibid., c. 463.140 (2).

10 Ibid., c. 463.350.

Financial practices are also subject to strict controls. The Commission is directed to set minimum procedures for internal audits with which casinos must¹ comply. Casinos must make periodic financial reports to the Commission and open² their books to independent auditors.

By statute,³ the gaming authorities are exempt from the Nevada Administrative Procedure Act. By ruling of the Nevada Supreme Court, they are exempt from⁴ the requirements of the United States Constitution. The Court, in so ruling, said

We view gambling as a matter reserved to the states within the meaning of the Tenth Amendment to the United States Constitution. Within this context we find no room for federally protected constitutional rights. This distinctively state problem is to be governed, controlled and regulated by the state legislature and...by the Nevada Constitution. It is apparent that if we were to recognize federal protections of this wholly privileged state enterprise, necessary state control would be substantially diminished and federal intrusion invited.⁵

⁶As of 1980, there were 130 licensed casinos in Nevada. The Gaming Control Board reported for that year a total of \$169.7 million in gaming tax and license fees. These funds were used for the support of state and local government, education, and the operation of the game control agencies. From the total tax collections, the two agencies, the Nevada Gaming Commission and the State Gaming Control Board, used 3.7% of that total, or about \$6.2 million as administrative costs. State law permits up to ten percent of gaming tax collections for these⁷ administrative costs but historically they have not exceeded four percent. The major revenue producer has been the slot machines, accounting for 41.6% of total revenues in 1980, with the one dollar slot machines alone generating 19.4% of the⁸ total gaming revenues.

¹ Ibid., c. 463.157.

² Ibid., c. 463.158-159.

³ Ibid., c. 233B.039 (1)(e) and (f).

⁴ State v. Rosenthal, 93 Nev. 36, 559 P. 2d 830; Appeal Dismissed 434 U.S. 803(1977)

⁵ 559 P. 2d 830, 836.

⁶ State Gaming Control Board, Nevada Gaming Abstract, 1980.

⁷ Ibid.

⁸ Ibid.

Commentary on Nevada

Regulation of casino gambling in Nevada is better understood by examining it in the light of its historical development and economic influence. When Nevada legalized casino gambling in 1931, it had no legal casino operators upon which to draw. Predictably, illegal gamblers and other disreputable figures converged upon the scene. Thus, Nevada casinos were operated by gamblers with notorious pasts and with associations that extended the length and breadth of the country. By the 1950s, state control authorities were faced with the delicate task of implementing stricter controls without forcing a collapse of the industry. Unlike England where government authorities were able to erase virtually all undesirable operators and unlawful practices connected with casino gambling and begin anew with a rigidly regulated system that only tolerates casino gambling as a social control, Nevada had neither the desire nor ability to develop such tight reins on the casino entrepreneurs. Consequently, there was no wholesale reform of the casino industry. Instead, many casino operators were permitted to remain under so-called grandfather clauses. These operators maintained their connections with organized crime and casino gaming was soon treated as a pariah industry by investment and financial institutions.

Nevada's reach for respectability began with two events in the mid-1960s. In 1966, Howard Hughes arrived in Las Vegas, and over the next two years he purchased the Desert Inn, Sands, Castaways, Frontier, Silver Slipper and Landmark casino properties, all in Las Vegas, and Harold's Club in Reno. Also in 1967, the Nevada Legislature had passed the Corporate Gaming Act, making possible the entry of major publicly traded corporations into Nevada gaming. The arrival of reputable corporations such as Hilton and Hyatt not only widened the casinos' investment base but also added an aura of respectability to casino operations.

Despite this acquisition of "respectability," criminal roots remained under the surface. In one appraisal of the regulatory system in Nevada, the

author, Nelson Rose, comments that there has been mixed success in preventing¹ corruption under the Nevada statute. Although the National Gambling Commission in 1976 found that the presence of organized crime was negligible compared to the situation 15 years previous, and that skimming was generally prevented, Rose asserts that those findings can be disputed. More recent and well-publicized court cases and investigations by government agents revealed hidden crime ties and massive² skimming operations within Nevada's casinos.

The most important of these revelations, which cast a long shadow on the acquisition of "respectability" in the Nevada casino industry, were the Argent and Aladdin cases. At the very least, they were evidence that the Nevada regulatory scheme had not been able to prevent recurring episodes of faltering controls.

As discussed in a previous chapter, the Nevada Gaming Control Board, in 1974, approved a license for the Argent Corporation. Argent, headed by Allen Glick a young San Diego developer, had obtained more than \$100 million in loans from the Teamsters Central States Pension Fund to purchase a number of casinos which state investigators believed never left "mob" hands, although they underwent changes in ownership. The Teamsters Central States Pension Fund had a notorious link to underworld crime figures and kickback schemes. At the hearing on Glick's application, Shannon Bybee, a Gaming Control Board member, expressed disturbed feelings:

I've been bothered by this whole transaction. ***...(But) I have to be fair and vote with what the evidence says and ignore this feeling - this unquieting feeling that I have in my stomach that, down the road, I may be proved to have been right.³

¹ "The Legalization and Control of Casino Gambling." 8 Fordham Urban Law Journal 245 (1980).

² Wall Street Journal, December 27, 1979, p. 6, col. 1; December 5, 1979, p. 48, col. 2; September 20, 1979, col. 1; Los Angeles Times, December 28, 1977, p. 1, col. 1.

³ Skolnick and Dombrink, supra, of 766 n. 19, quoting from Transcripts of Proceedings, July 17, 1974.

In retrospect, it would appear that Mr. Bybee should have followed his instinctive warning that something was indeed amiss, as subsequent events were to prove. Argent became the focus of a major skimming investigation, the details of which are discussed earlier in this report.

Later, in 1979, the Nevada Gaming Commission, by unanimous vote, ordered the casino of the Aladdin Hotel closed. Governor Robert List had previously vowed that unless the Aladdin's owners, who had been found guilty of concealing hidden management by "unsavory" Detroit businessmen, found a suitable buyer, the casino would be shut down, even though it meant throwing 2,500 employees out of work.

By this action, Governor List hoped to 'cut out the gangrene of organized crime' which had infected several Las Vegas casinos.¹

The foregoing casino scandals were largely uncovered by federal law enforcement agents, resulting in a severe blow to the credibility of Nevada gaming control.

Ironically, these occurrences came at a time when legalized gambling was achieving greater publicity and acceptance in other parts of the country. With the financial success in 1979 of New Jersey's casinos, Resorts International and Caesars World, gambling stocks had soared. Major institutional lenders - banks and insurance companies - which for years had snubbed the Las Vegas casinos were now being receptive to gambling operations. Aetna Life and Casualty loaned \$60 million to Caesars World in 1979; Morgan Guaranty Trust headed a 15 bank consortium which reached a \$135 million agreement with Del E. Webb Corp., operator of several Nevada casinos. In addition, several states were targeted by casino interests as ripe for
2
legislation legalizing casinos.

The regulatory view in Nevada, however, cannot be divorced from the state's economy, as we have seen in the policy declaration of the control statute.

¹ Skolnick and Dombrink, supra p. 763, citing Joint Meeting of the Nevada Gaming Commission, State Gaming Control Board, and Gaming Policy Commission, July 5, 1979.

² Calif., Fla., Mass., N.Y., Pa., and Wash.

In Nevada, legalized casino gambling is no mere secondary source of revenue; it is essential for economic survival. Politicians acknowledge it; businessmen acknowledge it; more than 103,000 employees, or nearly one-third of the state's working force is employed in the 130 casinos;¹ and most of the remaining population is involved in secondary growth industries. Nearly half of the state's appropriation funds are derived from casino gambling and entertainment taxes.² Of the remaining revenues, about 67% come from sales and use taxes³ but without casino gambling, sales tax revenues would be reduced drastically. Nongaming aspects of casino business, i.e., room, food and beverage sales, account for about half the sales and use tax base. Without casinos in Las Vegas, many local merchants, dependent upon tourists attracted by the casinos, would go out of business.

"Given these realities, the Gaming Control Board, when it chooses to enforce regulations stringently, finds its attempts constrained by political and economic pressures."⁴

The approach to gaming control in Nevada, thus, is from a regulatory perspective, one that exercises controls yet encourages the prosperity of the industry. This approach differs from the federal perspective which, among law enforcement agencies, is prosecutorial in nature.

While the Gaming Control Board may attempt to enforce gaming regulations, the politically sensitive Gaming Commission can choose to ignore the Board's recommendations. The Commission, in overriding Board recommendations, has been criticized as being political, weak, and unsupportive of the Board.⁵

¹ State Gaming Control Board, Nevada Gaming Abstract, 1980.

² \$148 million of a total \$330 million. Economic Research Associates, The Role of Gaming in the Nevada Economy, May 1981, p. II-3.

³ \$79.3 million of the remaining \$122 million. Ibid.

⁴ Skolnick/^{and} Dombrink, supra, p. 773.

⁵ Ibid, citing Nevada State J. Aug. 27, 1979.

Although Nevada has recruited able and aggressive enforcement personnel, the state has not been successful in retaining them due to budget constraints:

"The gaming control agency has traditionally been a training ground for gaming industry auditors, security personnel, and casino executives. *** Gaming control agencies are understaffed, inexperienced and dependent upon young agents who fumble through early months of employment and then, after acquiring expertise, leave for high paying industry jobs."¹

Contrasted with the state's problem in attracting and maintaining knowledgeable regulatory agents, is the growing sophistication of organized criminal activity, particularly as it enters into legitimate enterprises and takes on the features and traits of white collar crime. Skolnick and Dombrink assert that "(a)gainst these forces of resourceful criminals, Nevada authorities are often² outclassed."

Confronted with these difficulties, the traditional view of gaming authorities (which is to regard licensing provisions as the linchpin of control in its effort to minimize the presence of organized crime in the gambling business) raises serious doubts among critical observers:

"In reality, licensing is quite limited as a control mechanism"...³

In Nevada, there are two kinds of licenses: (a) a restricted license, which permits the operation of slot machines in an establishment wherein the use of such machines is incidental to the primary business of the licensee (e.g., a grocery store) and (b) a nonrestricted license, defined simply as any license other than a restricted license. The overwhelming majority of applicants for a nonrestricted license fall within a class of "suitable applicants" - routinely successful⁴ business people, who are discussed perfunctorily, if at all, at licensing sessions.

¹ Ibid, p. 774.

² Ibid.

³ Ibid, p. 775.

⁴ Ibid.

It is the unsuitable applicant that fuels the general suspicion that the casino gaming industry is a magnet for organized crime. In Nevada, an unsuitable applicant is one who is believed to be an organized crime figure. The presence or absence of a felony record is not conclusive in determining whether an applicant is or is not an organized crime figure. Rather, an organized crime figure is one who (a) is reputed to be one, and (b) is unwilling to make the effort to disprove the allegation. The applicant thus bears the burden of demonstrating acceptability and must attempt to disprove allegations as to connections with organized crime.

Obviously, widely reputed organized crime figures do not apply for gaming licenses...if, for no other reason, they are going to be subjected to an intensive investigation. But there are applicants who, while they arouse the suspicion of authorities, are willing to submit to an investigation. An example cited by Skolnick and Dombrink is the case of Morris Shenker, who applied for a controlling interest in the Dunes Hotel. Shenker was once attorney for the late Jimmy Hoffa of the Teamsters Union and in that role Shenker was able to manipulate more than \$200 million in loans from the Teamsters Central States Pension Fund to preferred clients. Shenker's case raised several major issues related to the licensing process, among them: (1) the fairness of the hearing procedure, (2) the manner of assessing an applicant's reputation and the weight to be given such assessment, (3) the proper method of making a financial investigation, (4) the applicant's past relations with public officials, (5) the applicant's past business history, (6) the reputation of the business and social contacts of the applicant, (7) whether such relationships suggest the presence of undisclosed interests in the casino, and (8) the predictability of future conduct of the applicant as a licensee.

Despite the adverse public notoriety that Shenker was given in the press and the reluctance of the Nevada Gaming Control Board to see Shenker licensed, the Gaming Commission, concerned about constitutional guarantees of procedural due process, granted the license.

This development, as explained by Skolnick and Dombrink, came about because the facts of a case, which in the past, were argued and adjudicated in an informal setting, are now argued in open hearings by highly skilled and resourceful lawyers. In an open hearing, Shenker was able to cast doubt on every problem the Board brought to this attention. Skolnick and Dombrink state that the Shenker case was a turning point on gaming controls:

Where proof beyond a reasonable doubt is absent, gaming authorities are now reluctant to act upon their personal hunches.¹

In 1976, the Chairman of the Nevada Gaming Commission publicly attacked corporations employing high-powered lawyers to challenge the state's gaming control applications:

"The new group of gamblers - many of them corporations - are now talking about rights. It would be impossible to administer gaming if we adhered to their philosophy."²

According to Skolnick and Dombrink, it is clear that, in Nevada, the politically based control of the past has been displaced by a more legal oriented atmosphere which has imposed new constraints upon Nevada authorities. "These constraints, in turn cast doubt upon the desirability of the state's continued reliance upon licensing provisions as a primary gaming control device."³

Skolnick, in his more definitive study of Nevada's casino industry and its regulation, revealed a number of weaknesses in the licensing control scheme, including the vagueness of the control statute, the mixture of investigatory and adjudicatory functions delegated to authorities, and the casual disregard by officials of Nevada's open meeting law and principles of due process.⁴

Nelson Rose asserts that these criticisms seem unduly harsh and legalistic given the attraction of legal gambling for sophisticated criminal organizations:

¹ Ibid., p. 777.

² Ibid., see note 68.

³ Ibid., p. 778.

⁴ Skolnick, House of Cards, supra, pp. 239-330.

It is relatively easy for such an organization to find or create a front man with a spotless record and to hide the criminal control through layers of corporate structures and machinations. It is inherent in the nature of legalized gambling, then, that the control of individuals can be obtained only through prohibitively expensive investigations or through the use of subjective standards. The Nevada authorities have opted for the latter while attempting to perform investigative functions within their limited resources. Given those restrictions and Nevada's open policy in favor of expanding the casino industry, the gaming authorities appear to have performed well with relatively minor infringements of individual rights.¹ (emphasis added)

Rose believes that a more fundamental weakness in the Nevada control scheme is its complete disregard for side effects. Once the applicant's moral and financial worth are demonstrated, the state's policy puts only minimum restrictions on the construction and operation of casinos. Slot machines are found in restaurants, grocery stores and even in rest rooms. In contrast to the more strict controls found in other casino gambling jurisdictions, Nevada relies on the competition fostered by the free enterprise system to ensure fair treatment for the public. Absent are those controls that set the odds, rates of payment, minimum and maximum betting limits, hours of casino operations and other factors related to a casino impact on its patrons.

Nevada authorities point out that the Gambling Commission is empowered to² exclude individuals from the casinos, specifically, persons of notorious or unsavory reputation, persons convicted of a felony, or a crime of moral turpitude, or a violation of the gaming statute; or persons whose presence in a casino would "be inimical to the interests of the State of Nevada, or of licensed gambling, or both." Rose, however, asserts that this power has been exercised to a limited³ extent, more recently against expert card counters rather than so-called mobsters.

¹ Rose, supra, p. 275.

² N.R.S.c. 463.151.

³ Rose, supra, p. 266-267.

On a more positive note, Rose points to the success of the system in developing stability in the industry and confidence among the managerial class. A professional management class has evolved and although some individualscasinos have gone bankrupt, the industry as a whole has continued to grow through periods of recession and inflation. (There is some evidence that the present economic malaise nationwide has finally impacted on Las Vegas but some observers attribute this as much to the competition of Atlantic City as to the national recession). The development of college level courses on management and the sponsorship by the University of Nevada - Reno, of casino management conferences have contributed to a high industry - wide level of competence. Internal security systems and casino employees more knowledgeable as to both traditional and modern technology techniques employed by casino patrons bent on defrauding the house have had a positive impact on preventing corruption.

The most recent view of the Nevada Gaming Commission on the regulatory process was expressed by its Chairman in an article on relationships between the Commission and the casino licensees.¹ The Chairman, Carl F. Dodge, a former state senator, believes that regulation can be firm, fair and effective without the presence of adversary positions: "The gaming licensees and the state are partners. The licensees need to recognize and accept necessary regulation, and the state² needs to be realistic about what constitutes necessary regulations."

Dodge discusses three areas of regulation in which he believes better relations between the regulators and the regulated have evolved. With reference to the audit function, the Chairman points out that the Gaming Control Board, i.e., the enforcement agency, is, through its audit division, attempting to erase an unfavorable image with the industry. "Rather than coming on as the enemy invaders,³ they are taking on more of a home guard appearance." Audits are more frequent but

¹ Carl F. Dodge, "Evolving Relationships Between Regulators and the Regulated" Public Gaming Magazine, December, 1982, p. 39.

² Ibid.

³ Ibid.

also more professional. Licensees are coming to the audit division for help and advice in developing better control systems. The state is more pragmatic in its approach to cost-benefit understanding; if "the necessary requirements can be met in a way that is less costly to the licensee, or in a more realistic way, the state will innovate to accomplish that."¹

With reference to surveillance and investigations, the Chairman cites a new Cooperative Enforcement Program. Control Board liaison teams are involved with the casinos in an educational program designed to explain how and why the enforcement agency undertakes certain functions. With improved staffing, the Control Board is producing better quality investigations and in shorter time.

Finally, finance regulations are being revised to deal with the needs of licensees who seek to create equity capital, particularly in periods of volatile interest rates.

While the purposes and objectives of gaming regulation should never change, the Chairman states, the "methods of regulation should be responsive to the dynamics of a gaming industry in the constant process of change."²

The regulatory agency thus is portrayed by its chief officer as an accommodating partner, concerned with its image within the regulated industry and by inference, an agency intent on sailing in calm waters.

Great Britain

The British approach to casino gambling is drastically different than the legalization schemes adopted in the American jurisdictions. British authorities view gambling as a social evil - one that is to be controlled rather than encouraged as a source of revenue.

¹ Ibid.

² Ibid., p. 40.

Casino gaming was made lawful in Great Britain in 1960. The 1960 law (The Betting and Gaming Act) was drafted on the principle that anyone should be at liberty to organize gaming, provided that he complied with certain rules intended to ensure that players had a fair deal. Under terms of the statute, casino gaming was permitted in certain social clubs. However, loopholes in the law led to the growth of large numbers of commercially-run clubs which made gaming so profitable¹ that more than 1,000 casinos sprang up throughout the country. In the words of a British gaming official, "Games were conducted with little supervision and with no standardized rules. And the players stood to be exploited on a considerable scale. So, not surprisingly, the industry, with its rich pickings so easily garnered, was infiltrated by somewhat - shall we say - undesirable characters, to use a neutral² term."

In 1968, Parliament rewrote gaming legislation in the form of the Gaming Act which created the Gaming Board for Great Britain, the regulatory body which is the central pivot of the entire system of gaming control. The Board consists of the Chairman and three part-time members appointed by the Home Secretary. In addition to the Gaming Board, other agencies are concerned with casinos. The police, along with inspectors appointed and trained by the Gaming Board, deal with crime in the casinos. Taxation is the province of the Board of Customs and Excise. The courts play a crucial role: the Licensing Justices, and above them, the Crown Court as an appellate body.

The Home Secretary and the Secretary of State for Scotland, who are Ministers of the Crown, i.e., cabinet ministers, make the regulations for the rules applicable to the casino games. The powers of the Gaming Board are considerable and its jurisdiction runs to England, Scotland and Wales but does not include Northern Ireland, the Isle of Man or the Channel Islands.

¹ Royal Commission on Gambling. Final Report, London, 1978. p. 315. The law did not distinguish between nonproprietary (nonprofit) clubs and proprietary clubs (commercially operated for profit).

² The Lord Allen of Abbeydale, Chairman, Gaming Control Board, L & H Second Annual

The Board has extraordinary powers; it conducts hearings in secret; it is not required to give any reason for its decision to deny a license and there is no formal right of an appeal against a refusal. Should there be any suggestion that the Board is acting contrary to national justice (the British equivalent to due process), an application can be made to the High Court for a Writ of Mandamus.

The Gaming Board explains the need for a gambling authority possessing extraordinary powers in these words:

"Legal gambling which is not properly supervised and controlled can be just as lucrative and almost as harmful to society as illegal gambling. There must be constant vigilance to ensure that any legalised gambling activity is not penetrated by criminal interests, who in this connection comprise sophisticated, intelligent, highly organised, well briefed and clever operators with enormous money resources which enable them to hire the best brains in the legal, accountancy, managerial, catering and show business world. Gambling is a complex, international, multi-million pound activity with a multi-level structure of organisation. The fact that gambling has many aspects and that the criminal element can be present at different levels requires that it be controlled by a strong and effective supervisory body with clear and comprehensive powers, capable of matching the powerful gambling conglomerates to which reference is made in paragraph 80 of this evidence."¹

As Parliament's instrument for social control of gaming, the Gaming Board after taking into account a license applicant's character, reputation and financial standing, will issue a certificate of consent which means only that the Board is satisfied that the applicant is capable of and likely to be diligent in running a casino.² The law requires a finding by the Board that a substantial demand for casino gambling exists in a given community on the part of prospective players.

Armed with a certificate, the applicant, who must also be a resident of Great Britain, or incorporated there, must then apply to the Licensing Justices. The Licensing Justices in the jurisdiction where the proposed casino is to be located must either recommend or deny the application. Should the application be

¹ Royal Commission, supra, pp. 272-273.

² Royal Commission, supra, p. 316. A certificate of consent remains valid until revoked. It does not expire or need to be renewed. Ibid, p. 320.

denied by the Licensing Justices, the applicant may appeal to the Crown Court which may act on it as if it were an initial application.

The Licensing Justices (which are the lower Courts) are authorized to evaluate a variety of considerations including the question of whether there is sufficient social demand to justify the grant of a license. On this issue, the Board is entitled to be heard by the Court. There have been instances where the Board, having issued its certificate of consent, has appeared in Court to object to the grant of a license. For example, issues arise at the licensing stage as to the suitability of the premises and the demand for gaming in the area which are not¹ relevant to the issue of a certificate of consent.

It is for the Court, after hearing testimony from the Board and the police to decide on the annual renewal of licenses, the transfer of licenses, the cancellation of licenses, and in the event of cancellation, the possible disqualification of the premises.

Casino staff must obtain certificates of approval from the Board, an approval not lightly given. Staff includes a casino employee in any supervisory capacity, or whose duties involve operating or handling any gaming device or handling any cash or tokens. Managerial personnel do not automatically need a certificate of approval but the Board can require such certification after giving² notice. In practice, most managers voluntarily obtain certification. Certificate fees are calculated to cover the cost of the Board and of the Licensing Justices. In 1978, the Board estimated there were about 8,000 persons in posts requiring³ certificates of approval.

Because casinos are located in private clubs, only members of the licensed club or their guests may enter the casino premises to gamble. No one is allowed to

¹ Ibid.

² Ibid., p. 318.

³ Ibid., p. 326.

gamble without giving 48 hours advance notice of that intention. The purpose of this requirement is to discourage gambling on impulse. Other examples of the British scheme to discourage casino gambling without suppressing it are: prohibiting advertising; confining licensed casinos for the most part to fashionable, nonworking class areas; prohibiting entertainment, singing or dancing; barring the serving of alcoholic beverages at the gaming tables; and limiting the number of slot machines to no more than two per casino.

Further, credit is not allowed, with the sole exception that the casino operator may accept a check on the condition that it is not postdated, that it is exchanged for cash or chips to the full amount and that it is banked within two banking days.

To ensure complete impartiality by the casino staff, no tipping by members or guests is allowed.

All licensed clubs must pay a gaming license duty, levied by the Board of Customs and Excise. The duty combines two elements, one related to the ratable value of the premises, and the second a progressive charge which increases with the number of gaming tables provided on the premises. A separate license issued by the Board of Customs and Excise is required for operation of any gaming machines and there is an annual duty payable for each machine. Two types of licenses are issued, the "ordinary" license effective year round, and the "holiday season" license which allows premises in holiday resorts to provide a number of low-stake machines offering amusement with prizes, during the Summer season, without their being overburdened with duty payments. They are valid from March through October.

The Board may inspect the gaming premises and machines at any reasonable time and may inspect a licensee's financial records. Failure to permit such inspection is grounds for revocation of a license.

When the 1968 Gaming Act went into effect, clubs licensed for casino gaming were allowed to operate only in 36 specified gaming areas of Great Britain. This restriction was intended to reduce the number of facilities for casino gaming throughout the country while at the same time obtaining a fair geographical distribution. Coupled with investigations of applicants and other licensing procedures, the number of clubs offering casino gaming was reduced from more than 1,000 to about 120 by 1970. Subsequent amendments to the law expanded the number of gaming areas to 53 by 1974, at which time a freeze was effected. The total number of clubs offering casino gaming, however, has increased only slightly.

Casinos are operated only in the principal areas of population and within those areas their access is deliberately made difficult by a combination of approving licensees whose facilities are removed from the working class neighborhoods and by club membership fees that are at a level which forecloses a substantial part of the working class from applying. Casinos generally are not found in the main tourist resorts outside London unless those resorts happen to be sizeable population centers. In late 1981, there were 21 casinos in London and 103 throughout the rest of Great Britain, some of them quite small and some of them run by big corporations. The London casinos, however, account for 75% of the total casino¹ business and get most of their business from tourists. The Lord Allen of Abbeydale, Chairman of the Gaming Board, states that about 400,000 persons visit British casinos each year (about one-quarter of whom are foreign visitors) compared to some 17 million who participate in the British football pool, another form of legalized gaming. As to hours of operation, during weekdays casinos are permitted to operate between 2 p.m. and 4 a.m. They must close at 2 a.m. on Sundays, except in London where they must close at 3 a.m. Sunday openings are at 2 p.m. except in Scotland where it is 7:30 p.m.

¹ Royal Commission, supra, p. 290.

Commentary on the British System

According to the Lord Allen of Abbeydale, when Parliament made a new beginning on the control of casino gaming in 1968, it accepted the view that commercialized gaming should not be suppressed altogether, and based the new legislation on the doctrine that no one could claim any longer to be entitled to run a casino, or work in a casino, as a right. Participation in commercial gaming was perceived to be a privilege, to be conceded only in response to unstimulated demand, and only to those who could demonstrate, after searching scrutiny, that they could be trusted to observe the spirit as well as the letter of the law.

There was no attempt at the time to disguise the social philosophy underlying this act under which we're still operating. Its purpose was openly stated - to purge gaming of its criminal elements, to cut out excessive profits; to ensure that gaming was honestly conducted in decent surroundings, and to reduce drastically the number of commercial clubs. It was recognized that the operators were in the business for profit; but they were to be strictly controlled in such a way as to discourage socially-damaging excesses and to prevent the incursion of crime. On the other hand, it was not a basic purpose of the act to raise revenue for the state.¹

Jerome Skolnick points out some of the problems that the loosely-drawn 1960 legislation gave birth to, thus creating the need for the more drastic controls as cited by the Lord Allen above.² Deficiencies in the 1960 legislation allowed commercial interests to operate casino games at a considerable profit with virtually no controls. Moreover, since technically these were private clubs, police could not enter them without a warrant. The clubs, however, were conducted as if they were public gaming houses and they advertised freely. Such profitable enterprises, operating under conditions of governmental immunity, soon attracted the attention of organized criminals inside and outside of England. Skolnick quotes Vincent Teresa, a notorious member of organized crime, who, in his book, My Life In The Mafia, described the mob's involvement with the Colony Club located in London:

¹ The Lord Allen of Abbeydale, supra, p. 25.

² Jerome H. Skolnick, "The Dilemmas of Regulating Casino Gambling," Journal of Social Issues, Vol. 35, No. 3 (1974), pp. 129-143. See also Royal Commission, supra, Vol. 1, paragraph 16.8, p. 269.

When you wanted to run junkets into the Colony Club, the man you made arrangements through was either Lansky or his right arm, Dino Cellini. They'd give you the clearance and make sure you got a piece of the profits. If you were a mob representative running a junket to the club, they kicked back 15 percent of all the money lost by the people you brought. That could result in some very serious money...The Colony was good for at least three to four million bucks a week in action.¹

The government, perceiving an increasingly critical situation, decided that it had to choose between outright suppression of gambling and rigorous control. Since gaming was so widespread, the government felt that suppression would be ineffective and would in the end exacerbate the situation. Much of the activity, it was thought, would be driven underground into the same hands of the racketeers. Only by exposing the activity to the full light of day could the government hope to control it and thereby dislodge the criminal element. Thus, the government created a powerful regulatory board which would by way of very tight controls restrain both interest and growth in gambling activity. Skolnick believes the strategy has succeeded although in the Board's policy of severely limiting the number of casino clubs through its strict licensing procedures and severe zoning restrictions it has, ironically, provided British gaming interests with a state-protected monopoly.²

Skolnick believes that the most important factor differentiating European and American attitudes toward gambling is "benevolent paternalism," which coupled with autocratic tradition results in a policy that reflects concepts of class segregation.³ Throughout the continent, casino gambling is characteristically restricted to spas and so-called watering places generally patronized by upper-income groups or individuals. The effect is to exclude and presumably protect the industrial working class from the temptations of casino gambling.

¹ Skolnick, supra, p. 133.

² Ibid, p. 134.

³ Ibid.

This attitude, Skolnick argues, is reflected in British licensing procedures. Casino gaming clubs are not permitted in the working class districts of London. Where the clubs do exist, such as in fashionable residential districts, they are designed to be exclusive - not only by their location but also by substantial membership fees that make them prohibitive for most British workers. "Thus, the law does not prohibit the British worker from gambling; it simply puts the facilities out of reach."¹

Skolnick's observation may apply only to the London area. At least, as described by the Royal Commission on Gambling, not all British workers find casinos to be inaccessible or beyond their financial means:

Although all casinos are clubs, some are more so than others. At one end of the scale there are a few smart London casino clubs where new members are usually proposed by an existing member, are vetted* with some care by the management and pay an initial subscription of up to 50 pounds. At the other end there are the small casinos in the provinces where anyone can join on the statutory 48 hours' notice provided that the security man at the door has not summed him up as an undesirable and he has completed an application form giving his name, address, and occupation. The proprietor accepts no risk because he can cancel the membership of anyone of whose behaviour he subsequently disapproves. There is no membership fee to return and he will certainly not be in the habit of cashing cheques except for someone whom he knows very well or unless the cheque is for a small sum within the limits which the banks guarantee when a cheque card is produced at the time of encashment.²

Of related interest on this point are the comments of an executive for a London casino:

Problems begin to accrue when casino gaming is looked upon as a form of mass entertainment, rather than class entertainment, where the regulations are so arranged as to encourage people to gamble money which they cannot afford to lose. That is probably one of the reasons why casino gambling has gotten a bad name in the United States, where it is treated as a form of mass, rather than class recreation."³

* In British usage, "vet" means to examine or appraise expertly.

¹ Ibid, p. 138.

² Royal Commission, supra, p. 289.

³ Victor Lownes, Chairman and Managing Director, Playboy Casinos in the United Kingdom, L & H First Annual Gaming Conference, 1979, p. 15.

More than a decade ago, Lownes testified before a New Jersey legislative committee as to the more rational distribution of casino establishments in Britain which contributes to the avoidance of insensitive assaults on the aesthetic quality of resort areas where they are located:

The British system avoids a flamboyant concentration of gaming. No garish, brightly lit strip exists because gaming is fairly distributed throughout the country and throughout major cities within the country. Tourism is not drawn just to one major centre where gaming is permitted and there is none of the frantic competition that means casino competing with casino to provide additional diversions to the point where non-gaming areas cannot compete in attracting even non-gaming tourists. Nor is there the high pressure neon competition which has become our image in Nevada, because in Britain casinos are not lined up side by side to shrilly compete for passing trade.

How much more desirable is the situation in Britian, where casinos are intelligently distributed to meet demand and where no concentration of casinos exists to overshadow all of the other touristic amenities.¹

The attitude is also reflected in the requirement that the licensing applicant must show not only the customary capital and expertise in his application but also the presence of a "demand" for the activity. The Board employs the term to mean social, not economic, demand, and in its administration of the act has not been persuaded that there has been any stimulation of demand since passage of the Gaming Act.

Another example of British paternalism cited by Skolnick is the rule prohibiting the extension of credit.² Gambling debts in England are recoverable in court and checks written by bettors to cover the purchase of chips are thus recoverable in the amounts written. But a gambler who writes a series of checks in the course of an evening's betting is not permitted to consolidate them into one large check. The Board, in its paternalistic fashion, wants the banker to know that the

¹ Victor Lownes, "Statement on the Proposed Legislation to Legalize Casino Gambling in Atlantic City," before the New Jersey Senate Judiciary Committee, Trenton, February 10, 1971.

² Skolnick, supra, p. 135.

check writer has gambled more than he originally intended. It believes in the social value of embarrassing a man. It thus hopes by the potential threat of embarrassment, to deter unwise or uncontrolled betting, particularly where such disclosure could influence the bettor's credit rating in the business world.

Lownes, the London casino manager previously quoted, is satisfied overall that the British system of prohibiting credit in casinos has worked out extremely well.¹ He does have some criticism of the regulation which precludes the return of a patron's check even if the patron is a winner. There have been incidences of a patron presenting a check for chips which the casino cashes; then the patron wins but the casino must pay the winnings in cash or its check; ^{the casino} subsequently/dis-covers the patron's check was not good. Lownes argues winners should be paid with their own checks as a first step.

Lownes has some interesting comments on liquor, tipping and entertainment. He favors the ban on liquor at the gaming tables:

I don't think people should have their judgment muddled when they are involved in playing casino games where large sums of money can change hands very rapidly, and where advantage might be taken, not only by an unscrupulous casino operator, but by other players at the table.²

Lownes is opposed to tipping, which is prohibited in British casinos. He agrees with that policy pointing out that "people who are supervising the gaming are acting as judges, and as judges, they should not be subjected to concepts of favoritism that might emerge in a dispute between a big tipper and a nontipper."

The British system does not permit live entertainment in the casinos. The purpose of this rule is to prevent people - particularly young people - from being attracted to casinos by the music or entertainment and so introduced to a

¹ Ironically, the Playboy Club, which Lownes managed, recently lost its license because of violations of credit regulations.

² Lownes, ^{supra}, p. 18. Another distraction that could muddle the judgment of players caused the Board to issue a rule requiring the "bunnies" in the Playboy Club Casino to wear bibs over their décolletage when dealing cards. See Skolnick, supra, p. 136.

form of gambling for which they might otherwise have shown no inclination. There¹ was clear evidence that this was happening prior to the 1968 Gaming Act. Lowmes agrees that it is a wise rule: "There is a good reason for this. The Gaming Board does not believe people should be lured in to see Sammy Davis or Tom Jones or Frank Sinatra, and made to run the gauntlet of slot machines and gaming tables." The British system, Lowmes adds, insulates the casino operator from the high salaries of these entertainers. Further, not only does live entertainment lure non-gamblers, it also may seriously impact another form of legitimate entrepreneurs in the entertainment field. On this point Lowmes contends that "casino gaming is itself a form of entertainment, nothing more and nothing else, and it is not absolutely necessary that the operators of casinos should have a monopoly on all the forms of entertainment in the community."²

Since the British imperative for legalization of casino gambling is social rather than economic, the derivative principle is that demand shall not be stimulated. Skolnick notes that from this flows at least four major practical consequences. First, the British do not permit junkets. As a result, tourists who wish to gamble in England must pay their own way, an effective social control but obviously not a help to the tourist economy. Second, the control ban on the extension of credit is logical in the social sense but where the purpose of credit in any industry is to stimulate demand, the ban is not good economic sense. Third, advertising is a means by which businessmen stimulate demand for their products or services. The ban on casino advertising obviously is another result of the principle of unstimulated demand. Fourth, social control affecting unstimulated demand is effective in England because British gambling control authorities enjoy far greater discretion than their counterparts in American states. This discretion is

¹ Royal Commission, supra, p. 296.

² Lowmes, supra, p. 19.

possible partly because public service in Britain is not viewed as a stepping stone to greater economic rewards and British public servants are presumed free from corruption. The capacity of British authorities thus, to establish strong controls and impose rigid discipline, is not hamstrung by constitutional requirements or by a regulatory bureaucracy considered to be relatively corruptible.

Given the autonomy and the considerable power of the Gaming Board of Great Britain, it is no wonder that, as Skolnick reports, it is frankly acknowledged among its members and staff that the Board "constitutes the most autocratic British institution since the Star Chamber."¹

Puerto Rico

Casino gambling was legalized in Puerto Rico in 1948 for the dual purpose² of developing the tourist industry and generating additional revenue.

Responsibility for overseeing casino gambling in Puerto Rico is shared between the government operated Puerto Rican Tourist Development Company (hereafter³ the Company) and the Secretary of the Treasury of the Commonwealth.

The Company is directed by statute to divide the island into zones to⁴ further commercial and tourist development. The zones drawn by the Company reflect their tourist importance: metropolitan, historic and rural. Minimum requirements for the casino facility and the annual franchise fees for operation vary according to the zone in which the casino is located. There is an annual franchise fee of \$50,000 to operate in the metropolitan zone and \$25,000 elsewhere on the island. Other requirements tied to zones are hotel size, facilities offered and total investment. For example, a hotel in the metropolitan area must have at least

¹ Skolnick, supra, p. 135.

² Games of Chance Act (Act May 15, 1948, No. 221, s. 1, as amended).

³ Laws of Puerto Rico Annotated, Title 15, ss. 71-74.

⁴ Ibid., s. 76.

300 rooms or a minimum investment of \$5 million plus beach or pool facilities. In the Old San Juan historic zone, the hotel must have at least 125 rooms and a minimum investment of \$2.5 million. In the rural zone, the hotel must have a minimum of 150 rooms and an investment of at least \$2 million.¹

An applicant for a casino license must prove to the satisfaction of the Secretary of the Commonwealth, that he owns a hotel, restaurant, casino, clubhouse or other bona fide amusement place proper for tourists,² has the means and commercial organization to operate a casino,³ has not been convicted of a felony or misdemeanor involving moral turpitude,⁴ and enjoys good standing in the community.

Under the Puerto Rico regulatory scheme, the casino is considered a dependency of the hotel; it cannot be operated separately. Thus, the casino applicant must be economically and professionally capable of operating a tourism hotel in Puerto Rico.⁵ Beyond this, the applicant must convince the Company that it is in the economic interest of Puerto Rico, and especially the tourist industry, for a casino to be licensed at a proposed location.⁶ When an applicant complies with all of the Company's pre-licensing requirements, he submits a certified check for \$15,000. A casino license is not transferable and any transfer or cession of shares must be reported to the Secretary and the Company within 30 days. Such a license is a revocable privilege.⁷

Following approval by the Company and the Secretary of the initial requirements, the process of licensing personnel is undertaken. Persons who work in the gambling rooms, such as managers, cashiers and croupiers (dealers) must be licensed.

¹ Francisco Nolla-Duran, Director, Gaming Control Department, Puerto Rico Tourist Development Company. Public Gaming Magazine, April, 1982, p. 5.

² Laws of Puerto Rico Annotated, supra, s. 72(a).

³ Ibid., s. 72(c).

⁴ Ibid., s. 72(b). This requirement also applies to all shareholders and partners if the applicant is an artificial person, and further, to the actual owners and not merely the nominal owner.

⁵ Nolla-Duran, supra, p. 5.

⁶ Laws of Puerto Rico Annotated, supra, s. 73.

⁷ Ibid., s. 72(a).

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a responsibility of the Company. The Company, for example, requires an applicant for a croupier's license to be at least 13 years of age, an American citizen, with no criminal record and free of any mental or physical defect that would interfere with his duties. Further, the applicant must take a company controlled croupier course (at no charge when casinos need additional personnel). The classes are actually conducted by a casino but only after public advertisements for applicants. All instructors and students are screened and approved by the Company and the classes are supervised by Company personnel. Certificates are granted to students who complete the three month course which makes them eligible for hiring by a casino. No croupier is hired unless a casino makes a written request to the Company which then processes the license for work in that particular casino. The license is renewable annually but automatically expires if the croupier resigns, is fired, or is laid off.

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Other persons who are engaged in an activity connected to the operation of a casino have to meet requirements established by the Company. A casino employee is not permitted to gamble in any casino in Puerto Rico. The Company maintains complete documentation on past and presently employed casino personnel which begins with an individual's file from the moment of application for employment, and in the case of croupiers, from the time they apply to take the dealer course. Should the Secretary deny an application, there is no explicit statutory provision for judicial review. A decision by the Secretary or the Company to suspend or cancel a license is not appealable.

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¹ Ibid., s. 78.

² Letter from Director of Gambling Department, Puerto Rico Tourist Development Company to Special Casino Gambling Study Committee, Michigan House of Representatives, April 29, 1975.

³ Laws of Puerto Rico Annotated, supra, s. 76.

⁴ Ibid., s. 78.

Casino gaming is organized to operate in an elegant atmosphere. Employees of casinos must wear formal uniforms or jackets and a strict dress code applies to casino patrons during evening hours. Visitors must be at least 18 years old and no alcoholic beverages may be served. Either the Secretary or the Company may revoke a license on grounds of violation of any of the statutory responsibilities of the licensee.

Some casinos may operate from 12 noon to 8 p.m., others from 8 p.m. to 4 a.m. There are no requirements as to the minimum size of the casino itself but the floor plan must have the Company's approval and this requires a casino operation in a separately enclosed room exclusively for casino purposes. Casinos are not allowed to advertise or offer/¹ their facilities to the public of Puerto Rico and advertising outside the Commonwealth is subject to approval of the Company. Such statutory provisions and regulations are designed to discourage gambling among residents of Puerto Rico.²

The Company has free access to the casinos, their equipment, books and documents. Gambling equipment is inspected daily by Company agents and no equipment shall be used without their prior approval.³ If the casino wants to make any changes in its operations, it has to have prior approval by the Company's Gaming Department. The Secretary is empowered to conduct audits and the Company monitors bets and game operations.⁴ The Secretary is authorized to impose fines ranging up to \$10,000 for violations; the Company may impose fines of up to \$500.

Proceeds of licenses and taxes on gambling, with the exception of slot machine proceeds, are deposited to the general treasury with no earmarking of distribution. Slot machines, which have been authorized only since 1974, are under the sole jurisdiction of the Company's Gaming Department. Slot machine revenues

¹ Ibid, s. 77.

² Nolla-Duran, supra, p. 8.

³ Ibid.

⁴ Laws of Puerto Rico. Annotated, supra, s. 76.

are deposited in a common fund and after deducting all operational costs, the remaining net income is distributed as follows:

- 20% to the University of Puerto Rico
- 20% to the General Education Fund
- 20% to the Puerto Rico Tourism Company
- 40% to the participating hotels.

Of the last-designated share, i.e., the hotel's share, 15% of that total is deposited¹ in the tourism industry's development fund.

Commentary on Puerto Rico System

Little current information is available to evaluate the Puerto Rican casino regulatory system. Correspondence and telephone communications with authorities in San Juan have produced only meagre information related to the application of the statute and regulations. Alfonso Bonini, Acting Director of the Gaming Control Division, has indicated that of the 12 casino-hotels in operation, most are located in very exclusive settings designed to discourage participation by the resident population.² While residents may patronize the casinos, the physical isolation of the establishments, the enforcement of strict dress codes, the ban on local advertising and the stated legislative goal of producing revenue from the tourist dollar, combine to effectively discourage local residents from visiting casinos in more than token numbers. Senor Bonini contends that no more than 10% of the resident population patronizes the casinos. The actual percentage for each casino varies according to accessibility and intangibles such as casino staff attitudes, which it may be inferred, can make the residents feel unwelcome or uncomfortable.

None of the literature on the influence of organized crime and criminal elements related to casino operations makes reference to the Puerto Rican casinos. There is mention of the subject in a gambling guide published more than 20 years

¹ Nolla-Duran, supra.

² Telephone comments to Legislative Research Bureau, February 22, 1983.

ago in which the author states, "It is difficult to find a report of any incidence¹ of corruption or criminal influence in Puerto Rico's casino industry." In the 1976 Report of the Task Force on Organized Crime,² the only reference to organized crime in Puerto Rico appeared in an appendix providing comments on states' definitions of organized crime. The Puerto Rican contributor stated that "our problem of organized crime in Puerto Rico, up to now has been local in nature. There are four general areas which point out some organization. These are narcotics,³ gambling, prostitution and automobile theft." Whether gambling included casino gambling is left to speculation. In the brief references to casino gambling in the text of the report, there are no comments linking Puerto Rico to organized crime.

New Jersey

A detailed analysis of the New Jersey Casino Control Act makes obvious the fact that the New Jersey drafters took full advantage of the many years of experience with casino gambling acquired by regulators in jurisdictions where this activity has been legalized. In addition, available to the New Jersey draftsmen were volumes of critical essays and dissertations which describe the flaws and weaknesses of regulatory procedures and mechanisms utilized in licensing jurisdictions. The provisions of the New Jersey statute reflect the deep concern of the drafters with the descriptive detail in many of those critiques which reveal the vulnerability of the casino industry, the regulatory authorities and the general public to criminal machinations and Machiavellian politics by those who target the casinos as opportunities to further their personal interests.

¹ J. Scarne, Scarne's Complete Guide to Gambling, 1961, p. 205, quoted by Rose, supra, p. 286.

² National Advisory Committee on Criminal Justice Standards and Goals, Washington, December, 1976.

³ Ibid., p. 215.

Perhaps the most complete and authoritative analysis of provisions of the New Jersey statute is that of the Hon. R. Benjamin Cohen, former General Counsel to the Casino Control Commission, who describes the law from his perspective as one of the principal participants in its formation.¹ The sections immediately following are a condensation of that portion of Judge Cohen's article describing the theory and development of the control statute.

The preamble to the Casino Control Statute declares the specific purpose of the legislation is to redevelop Atlantic City as a tourist and convention center. Casinos in New Jersey are limited to Atlantic City and must be part of a hotel having a minimum of 500 rooms.

Casinos are regulated by two state agencies: an independent Casino Control² Commission and the Division of Gaming Enforcement, which is part of the office of the Attorney General.³

The Commission hears and decides applications for licenses, conducts hearings on civil violations of the Casino Control Act, collects license fees and taxes, and polices the casino operations.⁴ The Division investigates license applicants, conducts continuing reviews of casino operations by on-site observations,⁵ and audits casino operations.

All monies received from taxes on gambling revenues are deposited in a Casino Revenue Fund exclusively for reduction in property taxes, rentals, telephone, gas, electric and municipal utilities' charges of eligible senior citizens and disabled residents of the State of New Jersey. Licensing fees are deposited in a Casino Control Fund.

¹ "The New Jersey Casino Control Act: Creation of A Regulatory System," 6 Seton Hall Legislative Journal 1 (1982). Judge Cohen presently sits at the Juvenile and Domestic Relations Court, Essex County, N.J.

² NJSA, s. 5:12-50.

³ Ibid., s. 5:12-55.

⁴ Ibid., s. 5:12-63.

⁵ Ibid., s. 5:12-76.

The Broad Role of the Casino Control Commission

The Casino Control Commission, the licensing agency, may issue a license only after an extensive investigation has been conducted relative to the background of the company (or companies) that propose to own and operate the casino-hotel, and the persons associated with those applicants.¹ In its evaluation of an applicant for a license, the Commission must consider the applicant's good reputation for honesty and integrity,² its financial stability, integrity and responsibility³ and the business ability and casino experience of such companies and persons.⁴ The physical facility of the casino-hotel must also be approved by the Commission.⁵

In addition to the casino-hotels, the Commission has the responsibility to license all employees of a casino-hotel⁶ and all of the companies that provide goods or services to the casino-hotels on a regular or continuing basis.⁷

After a casino is licensed, it remains under continuous supervision by the gaming authorities. The Commission has a constant presence on the casino premises, monitoring the system of internal and accounting controls, observing money counts, and receiving patrons' complaints.⁸ There are also periodic audits of casino operations.

Aside from requirements spelled out in the statute, the Act charges the Commission with the responsibility for adopting rules and regulations to implement its provisions.⁹ Among the many regulations promulgated by the Commission are those prescribing methods and forms of application, hearing procedures, credit

¹ Ibid., s. 5:12-84(b).

² Ibid., s. 5:12-84(c).

³ Ibid., s. 5:12-84(a).

⁴ Ibid., s. 5:12-84(d).

⁵ Ibid., s. 5:12-84(e).

⁶ Ibid., s. 5:12-89 to 91.

⁷ Ibid., s. 5:12-92.

⁸ Ibid., s. 5:12-63(f).

⁹ Ibid., s. 5:12-69; s. 5:12-63(c), s. 5:12-70 and 71.

transactions, internal and accounting controls, gaming schools, gaming equipment, rules of the games, advertising, entertainment, alcoholic beverage controls, casino service industries, equal employment opportunity, and exclusion of persons from the¹ casinos.

The Casino Control Act also requires the Commission to review the statute² and recommend such amendments to the Legislature that are considered necessary. From experience gained in the early period of operation, the Commission has recommended a number of amendments, many of which are meant to ease the licensing process without weakening the regulatory system.

None of the tax revenues generated under provisions of the Casino Control Act are diverted to support the government regulatory agencies. The cost of all of the regulatory operations is borne solely by the casino industry in the form of³ license fees, which are deposited in a separate Casino Control Fund.

Powers and Duties of the Casino Control Commission

The Casino Control Commission is an independent governmental agency, consisting of five members appointed for fixed terms by the Governor with the advise and consent of the Senate.

The Governor designates the Chairman, who is the chief executive officer of the Commission. The Commission may employ such personnel and may establish such a plan of organization as it deems necessary.

The Commission is vested with exclusive jurisdiction to implement and⁴ oversee the economic development authorized under the Act. Together with the Division of Gaming Enforcement, which is the investigatory and enforcement arm of⁵ the government's regulatory scheme, the Commission is responsible for ensuring the

¹ N.J. Adm. Code. Title 19, s. 40-1.1 to 1.13.

² NJSA, s. 5:23-72.

³ Ibid., s. 5:12-139 to 143.

⁴ Ibid., s. 5:12-63.

⁵ Ibid., s. 5:12-76.

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integrity of the casino industry, a concern which extends to industry employees
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and vendors, as well as to the labor organizations representing casino employees.

On this note, among specific powers vested in the Commission are (1) the
power to issue subpoenas and compel the attendance of witnesses anywhere in the
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state; (2) the power to compel testimony and (jointly with the Attorney General) to
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confer testimonial immunity; (3) the power to conduct investigative hearings; and
(4) the power to institute suit to collect fees or taxes levied under the statute
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or the regulations. Further, to remove all doubts as/ the limits of its authority,
the statute provides that the Commission may exercise any proper power or authority
necessary to perform the duties assigned to it by law; and no specific enumeration
of powers in the act shall be read to limit the authority of the Commission to
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administer the act.

A myriad of other responsibilities thrust upon the Commission make plain
that assuring the integrity of the industry and its employees and service operators
is not to be bound by traditional law enforcement concepts. Among other statutory
responsibilities assigned to the Commission that relate to the integrity and good
reputation of those participants in the industry are: satisfaction as to the busi-
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ness ability and casino experience of licensees; the enforcement of affirmative
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action goals both in the construction and operational phases; licensure and regu-
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lation of gaming schools; regulation of alcoholic beverages; assessment and
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collection of all required fees, taxes and penalties; adoption and enforcement

1 Ibid., s. 5:12-63 to 72.

2 Ibid., s. 5:12-80 to 95.

3 Ibid., s. 5:12-65.

4 Ibid., s. 5:12-67.

5 Ibid., s. 5:12-66.

6 Ibid., s. 5:12-68, 70(e).

7 Ibid., s. 5:12-75.

8 Ibid., s. 5:12-84(d).

9 Ibid., s. 5:12-134-135.

10 Ibid., s. 5:12-12, 92.

11 Ibid., s. 5:12-103.

12 Ibid., s. 5:12-63(d)-(e), 70(e), 139 to 152.

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of all gaming table rules; the approval of all slot machines and other gaming
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equipment; and even the assurance that casinos create and maintain "a gracious
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playing environment in the casino."

Beyond these duties, the statute obliges the Commission to exercise
regional planning responsibilities in connection with the location and architecture
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of casino-hotels and the public space within them. Market and environmental impact
must also be analyzed as part of the Commission's duty to prevent the casino in-
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dustry from dominating the theme of Atlantic City as a convention resort. As part
of its redevelopment responsibilities, it administers tax provisions of the statute
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designed to further stimulate redevelopment.

Related to the Commission's planning and redevelopment functions are a
number of economic stimulants or factors which must be monitored by the Commission,
with the help of other agencies. Among these stimulants are: the tourist, conven-
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tion and resort business, casino construction jobs and casino industry jobs, con-
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formance to the city's master plan, the overall environmental impact of the gaming
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industry, the market vitality of the industry, and the ability of government
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services to meet the demands of population and industry growth.

Powers and Duties of the Division of Gaming Enforcement

The Division of Gaming Enforcement, created by the Casino Control Act, is
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under the jurisdiction of the office of the Attorney General. The Division is
administered by a Director who is under the direction and supervision of the
Attorney General.

1 Ibid., s. 5:12-70(f).

2 Ibid., s. 5:12-70(i), 100.

3 Ibid., s. 5:12-100(h).

4 Ibid., s. 5:12-84(e).

5 Ibid., s. 5:12-1(b)(4) and 1(b)(5), 5:12-84(e).

6 Ibid., s. 5:12-144(d) and(e), 5:12-146 and 147.

7 Ibid., s. 5:12-1(b)(1), (3) and (4).

8 Ibid., s. 5:12-84(e).

9 Ibid.

10 Ibid.

11 Ibid., s. 5:12-55.

In Fiscal 1981, the Division's operational costs amounted to \$13.9 million; appropriations were increased to \$18.4 million in Fiscal 1982, and the Division requested \$21.1 million in Fiscal 1983. Of the \$2.7 million increase for fiscal 1983, \$2.3 million is for salaries and related wage benefits.¹

The Division is required to investigate all applications, enforce the provisions of the Act and any regulations promulgated thereunder, and to prosecute before the Commission all proceedings for violations of the Act or of the regulations. It is also required to provide the Commission with all information necessary for the conduct of licensing hearings and for all proceedings involving enforcement.²

Specifically, the Division has the following stipulated powers and duties:

(1) Investigate the qualifications of each applicant before any license, certificate or permit is issued pursuant to the provisions of this act;

(2) Investigate the circumstances surrounding any act or transaction for which commission approval is required;

(3) Investigate violations of this act and regulations promulgated hereunder;

(4) Initiate, prosecute and defend such proceedings before the commission, or appeals therefrom, as the division may deem appropriate;

(5) Provide assistance upon request by the Commission in the consideration and promulgation of rules and regulations;

(6) Conduct continuing reviews of casino operations through on-site observation and other reasonable means to assure compliance with this act and regulations promulgated hereunder, subject to section 63g of this act;

(7) Conduct audits of casino operations, including reviews of accounting, administrative and financial records, and management control systems, procedures and records utilized by a casino licensee; and

(8) Be entitled to request information, materials and any other data from any licensee or registrant, or applicant for a license or registration under this act.³

¹ Budget Recommendations, Attorney General Irwin Kimmelman, May 4, 1982, before Jt. Legislative Appropriations Committee.

² Ibid., s. 5:12-76.

³ Ibid.

The Act also directs the Division to prosecute all criminal violations of the act except those it may refer to the Division of Criminal Justice.¹ To effectuate this power, the Division has access to the State Grand Jury.² The Division, its employees and its agents, also have such other law enforcement powers as may be delegated to it by the Attorney General for the purpose of effectuating the statute.³

Further, the Act empowers the Division to conduct inspections, and searches and seizures, where appropriate.⁴ Activities which are deemed to constitute "racketeering" are defined in the statute. The Attorney General may institute an action in the Superior Court to prevent persons or business entities who have received income derived from unlawful racketeering activity or through collection of an unlawful debt from investing in casinos or service industries.⁶ Other specified powers regarding racketeering and other prohibited activities and certain civil remedies available to the Attorney General are provided in the statute.⁷

Extraordinary Restrictions to Protect the Integrity of the Regulatory Process

Given the experience of the regulatory process in other casino gambling jurisdictions, the New Jersey Legislature imposed extraordinary restrictions on the members of the regulatory bodies. The integrity of the regulatory process is intended to be ensured by a number of safeguards: (1) the close scrutiny given to the character of each Commissioner appointed and each staff person employed; (2) the extensive pre-employment, employment and post-employment restrictions imposed on all Commission members and employees; (3) the internal system of checks and balances

¹ Ibid., s. 5:12-77.

² Ibid.

³ Ibid.

⁴ Ibid., s. 5:12-79.

⁵ Ibid., s. 5:12-125.

⁶ Ibid.

⁷ Ibid., s. 5:12-126 through 128.

between the Commission and its staff; (4) the New Jersey Open Public Meeting Act (commonly referred to as the Sunshine Law) and (5) judicial review. No other regulatory agency in the State of New Jersey is subject to such stringent regulations which are summarized here.¹

All Commissioners are appointed for fixed terms by the Governor with the advice and consent of the Senate. Terms are staggered to assure continuity and preclude wholesale replacement.² A Commissioner may be removed from office only for cause. If a Commissioner or employee is convicted of a crime in a court of law,³ his office or position is automatically forfeited.

Prior to nomination, a prospective commissioner must undergo an intensive background investigation by the Attorney General with focus on character, honesty, integrity, financial stability and responsibility.⁴ The New Jersey Conflicts of Interest Law applies to all commissioners as it does to all state employees.⁵ But over and above those provisions, the Casino Control Act imposes several restrictions on the Commission and its members. If, within three years prior to his appointment, the nominee was employed by, or had an interest in, any company applying for or holding a casino license, or a gaming-service license, he is barred from appointment.⁶ Each Commissioner must file detailed financial disclosure statements which are available to the public.⁷ During his term of office, no Commissioner may have any interest in, nor be employed in any capacity by any applicant or licensee.⁸ Commissioners and their spouses are barred from gambling

¹ Cohen, supra, at 14.

² NJSA, s. 5:12-52(a) through (d).

³ Ibid., s. 5:12-52(g).

⁴ Ibid., s. 5:12-52(d).

⁵ Ibid., s. 5:12-59.

⁶ Ibid., s. 5:12-58(b).

⁷ Ibid., s. 5:12-58(d).

⁸ Ibid., s. 5:12-59(f).

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at any casino licensed by the Commission. No Commissioner may actively partici-
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pate in any political campaign. Following one's service on the Commission, the
member is prohibited from holding any interest in, or being employed by, any casino
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licensee or applicant for a period of four years. Similarly, such Commissioner
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may not represent any party before or against the Commission for a two-year period.

The staff of the Commission and the employees and agents of the Division
of Gaming Enforcement are subject to substantially the same employment restrictions
as the Commissioners.

In exercising its powers and responsibilities, the Commission operates
in a fish bowl. The so-called Sunshine Law affects every action of the Commission.
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All actions taken by the Commission are documented. All decisions must be made at
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a public meeting based on evidence presented on the public record. Every final
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decision is subject to judicial review. Any official action requires three affir-
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mative votes, except action on casino license applications which require four
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affirmative votes.

Independence from Other Branches of Government

To further ensure the independence of the Commission, the Legislature
included provisions protecting it against influence from the three principal
branches of government. No member of the Legislature, or any member of his family
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or firm, may practice or appear before the Commission. No court may review a
decision of the Commission until that decision is final, nor may the injunctive

¹ Ibid., s. 5:12-59(b) through (e); the Commission's Code of Ethics prohibits spouses of Commissioners from this activity.

² Ibid., s. 5:12-59(h).

³ Ibid., s. 5:12-60(a), 59(e)(2).

⁴ Ibid., s. 5:12-60(c) and (d).

⁵ Ibid., s. 5:12-74.

⁶ Ibid., s. 5:12-73.

⁷ Ibid., s. 5:12-107.

⁸ Ibid., s. 5:12-110.

⁹ Ibid., s. 5:12-73(d).

¹⁰ Ibid., s. 5:12-70(k).

authority of the Superior Court be invoked until all administrative procedures are exhausted.¹ With respect to independence from the executive branch, in addition to the protections previously cited, i.e., fixed terms and removal only for cause, such removal or forfeiture of office are to be based on a final determination made by a court of law. In addition, neither the Governor nor any member of his family may practice or appear before the Commission.² And no more than three of the five Commissioners may be of the same political party.³

The Commission employs its own legal counsel to represent it in any proceedings to which it is a party and to render legal advice upon request.⁴ The purpose of this provision is to render it independent of the Attorney General and to ensure that the Commission can act as an appropriate check on the Division of Gaming Enforcement which is under the office of the Attorney General.⁵

Commentary on New Jersey System

A System of Checks and Balances: Theoretical Approach

R. Benjamin Cohen, former Counsel to the Casino Control Commission, in his discussion of the New Jersey regulatory scheme describes the relationship between the Commission and the Division of Gaming Enforcement as a system of checks and balances.⁶ As part of the overall design of the Legislature to ensure the integrity of the regulatory process, the Legislature placed governmental authority in two separate agencies. The Commission was given the licensing function and the regulatory decision-making function, while the Division was assigned the investigative function and the prosecutorial function.

¹ Ibid., s. 5:12-110(d). One exception to this provision is where a manifest denial of justice would otherwise result.

² Ibid., s. 5:12-70(k).

³ Ibid., s. 5:12-51(c).

⁴ Ibid., s. 5:12-54(d).

⁵ Ibid., s. 5:12-63(g).

⁶ Cohen, supra, p. 17.

This separation of functions, states Cohen, was done at the sacrifice of efficiency, for the specific purpose of creating a system of checks and balances. Although the Legislature recognized the advantages of centralizing the regulation of the highly sensitive casino industry, it was also aware of the need to guard against the possibility of official misconduct. Thus, the Commission and the Division act as a check and balance on each other. Cohen illustrates this point by noting that the Commission may, if it disagrees with the recommendation of the Division on a license applicant, disregard that recommendation. Conversely, if the Division disagrees with a final decision of the Commission, it may appeal that decision to the courts.

The rationale for separating the regulatory functions between the two agencies was rooted in the recommendations of the Staff Policy Group on Casino Gambling, a body designated by the Attorney General and the State Treasurer, at the request of the Governor. As summarized by Cohen, the Policy Group felt that, first, the enormous concentration of regulatory authority in a single agency would itself be dangerous in an area as sensitive as casino gambling. Second, by creating the Commission as an independent, impartial body vested with full quasi-judicial and quasi-legislative authority, the investigative and prosecutorial functions could remain in the Attorney-General's domain without offending the concepts of fairness or due process in the licensing and regulatory process. Thus, the "scenario of a single agency serving as investigator, prosecutor and judge was avoided."¹

On balance, Cohen believes the bifurcation of the regulatory process was a wise legislative decision.² The division of responsibilities into appropriate areas of oversight and enforcement contributes to the need to ensure the integrity of the regulatory process and outweighs any sacrifices in efficiency caused by the

¹ Cohen, supra, p. 18.

² Ibid.

dual operation. However, as Cohen observes, certain consequences flow from the legislative judgment that the two agencies be a check on each other. If such a system is to work, each agency must be staffed properly to provide an independent understanding, analysis, and critical evaluation of the work product of the other.

There is, as Cohen acknowledges, some duplication of effort on the implementation of the statute by the two agencies. Some of it is necessary since responsibilities of staff of both agencies occasionally overlap. But, to the extent that each agency be a check on the other, the Legislature made a value judgment that efficiency must yield to integrity.

Other constraints on the efficiency of the regulatory process are woven into the legislative scheme. One example offered by Cohen is the responsibility of the Division to furnish the Commission with information necessary to make its decisions. In a licensing or violation matter heard by the Commission, the Division must assume the role of a party or an advocate before the Commission, which sits as a quasi-judicial body. Cohen points out that due process considerations to the applicant or licensee prevent the completely unfettered free flow of information from the Division to the Commission. At times, the Division has properly withheld information in its possession.

Further, inasmuch as the Commission sits in a quasi-judicial capacity when it hears a contested case, and the Division is a litigant before the Commission, the former agency must have an independent capacity to evaluate critically the information presented to it. Such a need dictates that both agencies employ staffs with expertise in all matters relating to their statutory duties.

The Commission is also mandated by statute to promulgate rules and regulations. This quasi-legislative duty, continuing in nature, also dictates that the Commission maintain comprehensive in-house expertise. Reliance on outside consultants or on other agencies of government would not be feasible if independent judgment is to be exercised. For the same reasons, the Division of Gaming Enforce-

ment must maintain staff expertise as is appropriate to its investigative and enforcement responsibility independent of the Commission.

Cohen thus concludes that the various procedural safeguards and checks and balances discussed above "are what make this important regulatory system a strong one."¹

A System of Checks and Balances: Pragmatic Approach

The foregoing discussion of the theoretical design for regulating the casino industry in New Jersey serves to explain what the draftsmen intended to accomplish and what they hoped to avoid. Theory, of course, is akin to hypothesis or supposition. It is not applied knowledge. It has not been put to an empirical test. Once the Casino Control Act was operative, however, theory had to be applied and the existential lessons were, at the beginning, a harsh experience. The realities of regulating the industry began at once with the problems of evaluating the character of the initial corporate applicant.

As previously indicated, the Division of Gaming Enforcement is directly responsible to the Attorney General. The Division rightly takes an adversarial stance in the licensing process, arguing the state's case against the applicant for a casino license. With a sizeable operating budget and more investigatory power than its Nevada counterpart, the New Jersey Division of Gaming Enforcement appeared confident that the Governor's promise to keep organized crime and undesirable elements out of Atlantic City could be fulfilled.

Time and circumstances, however, affect the best laid plans. Although the Casino Control Act was signed in June, 1977, several months elapsed while the first major active applicant, Resorts International, was being investigated. By early 1978, it became clear that Resorts, which had an untidy affiliation with gambling in the Bahamas, would not be licensed before the summer tourist season began. Investors meanwhile were unwilling to commit capital to the casino industry

¹ Cohen, supra, p. 20.

while the scene was still murky. At the same time, casino proponents in Florida had launched a campaign to legalize casinos in Miami Beach. New Jersey authorities were thus eager to get a casino open and maintain its new momentum.

Notwithstanding the political imperative to bring casinos quickly to Atlantic City, the Casino Control Act mandated a detailed investigation of an applicant. Thus, the authorities had to reconcile these conflicting priorities. The solution, one of three options proposed by the Attorney General, was to amend the statute to permit a temporary gambling license for six months with a 90-day extension, while a license was still under investigation, and for a trustee to take over control of the casino if that applicant's license was denied. Such a compromise afforded the state four advantages: (1) it allowed for an early opening of a casino, (2) it permitted an intensive and thorough investigation of an applicant to proceed unpressured by economic demands, (3) it ensured honest operation of a casino during the remainder of the investigation, and (4) it preserved the continuous operation by the appointment of a conservator.

The compromise was quickly criticized for its undercutting of the Act's original strength and its rejection of the rationale for strict control. The New York Times, noting that the Casino Control Act was "a tough gambling law" which "was a prudent response to justifiable concern over criminal infiltration," described the compromise as a risky shortcut that allowed investors to become entrenched before they were adequately screened.¹

Skolnick and Dombrink agree with that assessment. In their judgment, either New Jersey/erred originally in having proposed such strict controls, or it erred in loosening the controls:

Surely, it is more difficult to dislodge an ongoing, extremely profitable and thus popular business venture, than to turn down a mere applicant. Political and economic pressures have already shifted the license burden and eroded the original conception of superstrict control that had been promised the voters of New Jersey.²

¹ March 16, 1978.

² Skolnick and Dombrink, supra, p. 781-82.

Nearly a year earlier, in July, 1977, the New Jersey Commission of Investigation had warned of the consequences of not applying strict controls over casino operations:

To start weak may, as a practical matter, result in a legislative inability to assert those greater state powers belatedly found to be necessary. Once persons have begun to operate casinos, there will be an inevitable tendency to lose sight of the privilege they are enjoying and to talk instead in terms of their rights.¹

The Division of Gaming Enforcement, charged with the responsibility of investigating Resorts International, which opened in May, 1978 under a temporary license, did not complete its report until December, 1978. During the interval, Resorts was enjoying a spectacular financial success, breaking all revenue forecasts, exceeding gross wins of casinos of comparable size in Nevada, and generating enthusiastic responses from investors in other planned casinos. Nevertheless, the Attorney General and the Division of Gaming Enforcement, upon completing its investigation on December 4, 1978, submitted a Statement of Exceptions and recommended that Resorts should not be given a permanent license. Among findings of the Division were (1) Resorts had been tied to underworld figures in the financing and operation of its casino at Paradise Island in the Bahamas, (2) Resorts had made questionable payments to officials of the Bahamas government, (3) Resorts' internal control system in the Bahamas operation facilitated skimming and (4) Resorts' financial backers in Atlantic City were not wholly cooperative during the investigation.

Despite the negative recommendations of the Division, the Casino Control Commission granted Resorts a permanent license. In its Opinion,² the Commission stated that the Division's Statement of Exceptions was constructed with a negative

¹ State Commission on Investigation, Report and Recommendations on Casino Gambling, July, 1977.

² In The Matter of The Application of Resorts International Hotel, Inc. For a Casino License. Decided May 22, 1979.

emphasis which, while necessary, tended to obscure the fact that the applicant provided the Division and the Commission with voluminous information which was not challenged and which supported the positive attributes of the applicant and the various persons to be qualified. Viewing each of the Division's 17 exceptions separately, and all of them collectively, the Commission found no facts which suggested that Resorts was unqualified for licensure. In the words of the Commission:

While some of the practices engaged in by the applicant in the past and in another jurisdiction might not pass muster in this jurisdiction under the strict regulatory system established under our statute and regulations, the circumstances of prevailing law, custom, and environment must be considered in placing such practices in their proper perspective.

In the final analysis, three (3) factors are the keys to this case: First, there is absolutely no evidence of present organized criminal involvement in the applicant corporation or its parent; second, all of the sources of funding for the Atlantic City operations of the applicant have been cleared as to integrity; and, third, with the experience gained during the past nine months of operation, the applicant is now running a well-controlled casino.

After all of the evidence had been presented at the hearing, the Division conceded these key points.¹

Skolnick and Dombrink argue that the Commission's response undercuts the logic of licensing. If an applicant's past conduct and conduct in other jurisdictions is not significantly germane, they say, there is no need for an intensive investigation. The reality of the situation, they observe, was that once Resorts was granted a temporary license which they describe as "a legal device hastily designed to fulfill a political promise to have a casino operating in Atlantic City for the summer of 1978," the denial of a permanent license would have risked economic peril.

"Thus, although the logic of licensing said 'deny,' the logic of economic pressure dictated 'affirm.' Economic logic won out."²

¹ Ibid.

² Skolnick and Dombrink, supra, p. 784.

Skolnick and Dombrink conclude that no matter how tightly drawn a series of controls appears, if economic enhancement is the purpose behind legalization, the controls will be eroded in response to perceived economic needs.

Similar links to organized crime were uncovered during the investigation of Bally's Park Place, Inc., and Caesar's World. Again, in each instance, the Division recommended that a license be denied and the Commission granted the license. However, in those cases, the Commission placed certain restrictions on the two applicants. Bally received a temporary permit only after its president and chairman William T. O'Donnell agreed to sever all of his relations with Bally while the state investigated allegations of his business deals with reputed organized crime figures. Bally, in addition to owning the applicant Park Place Casino-Hotel in Atlantic City, is a world-wide supplier of slot machines it manufactures. In 1980, the Commission, in granting Bally a permanent license, ordered Mr. O'Donnell to break his ties altogether with Bally, an order which O'Donnell appealed through the Courts. On December 3, 1982, the United States Supreme Court issued a one-sentence order refusing to hear Mr. O'Donnell's appeal, thus upholding the Casino Control Commission's 1980 order.¹

On December 13, 1982, the United States Supreme Court, without comment, turned down a constitutional challenge to the authority of the New Jersey Casino Control Commission by Clifford and Stuart Perlman, top officials of Caesar's World which is the parent company of Caesar's Boardwalk Regency Casino-Hotel in Atlantic City.² The Casino Control Commission had granted a license to Caesar's World to operate the Boardwalk Regency only on the conditions that the Perlman brothers sever their ties with the parent company and its subsidiaries. The Commission ruled the Perlmans, who had business dealings with reputed organized crime figures, had failed

¹ New York Times, December 9, 1982.

² Perlman v. Attorney General, Docket No. 82-691.

to prove their reputation for good character, honesty and integrity as required by the law. The Perlman¹s had unsuccessfully appealed the Commission's decision in the New Jersey courts, arguing that the Casino Control Act was unconstitutionally vague and that because they had legitimate business contacts with a party who was linked to Meyer Lansky, the Commission had subjected them to "guilt by association with a vengeance."²

With respect to other casinos, on April 7, 1982, the New Jersey Casino Control Commission ruled that Playboy Enterprises was unsuitable to operate a casino in Atlantic City unless it severed ties with the founder and principal owner, Hugh Hefner. The decision followed a two-month hearing into assertions by the Division of Gaming Enforcement that Hefner and Playboy had been involved in bribery and other violations of law.

In 1981, Playboy lost its lucrative casino clubs in England for violations of credit regulations. These infractions, along with assertions about the bribery of New York officials for a liquor license 20 years ago, were cited as reasons for the Commission's decision.³

While the Casino Control Commission, as noted above had previously required other companies to sever ties with top officials in return for licenses, it has never required a majority owner to sell his company. (Hefner held a 66% interest in Playboy.) The Playboy Casino-Hotel is actually a joint venture of Playboy and Elsinore Corporation. Under terms of an agreement between the two companies, if one partner fails to get a license, the other partner can buy out the former's interest.⁴

¹ New York Times, July 22, 1982

² New York Times, December 14, 1982. The Commission identified the business contacts as Alvin Malnik and Samuel Cohen, reputed associates of Meyer Lansky, a notorious figure identified with organized crime.

³ The vote was actually 3-2 for licensure but New Jersey law requires four affirmative votes. In the New York case, Hefner and Playboy were never prosecuted because they cooperated with the New York District Attorney under a promise of immunity.

⁴ New York Times, April 8, 1982.

The Division of Gaming Enforcement had recommended to the Casino Control Commission that Elsinore isolate itself from loans from the Teamsters Central States Pension Fund. Elsinore, part of the Hyatt Hotel chain, has borrowed from the Teamsters Fund for projects outside New Jersey. The Commission took the position that Elsinore had done nothing wrong in New Jersey and voted unanimously to grant Elsinore a license.

Subsequently, Playboy decided to divest itself of its 45.7% stake in the¹
Atlantic City casino.

The Casino Control Commission also approved a permanent license for the Sands Casino without any conditions attached although the Division of Gaming Enforcement had urged the Commission to impose several conditions on the license. Among the Division's recommendations was a requirement that Burton and Richard Koffman, New York brothers and businessmen holding a controlling interest in the Sands, discontinue further business transactions with Morris Shenker, Las Vegas casino operator (The Dunes), who is reportedly linked to organized crime and who received²
loans from the Koffman's finance company.

The Sands has become the object of a struggle between two wealthy Texas families and an electronics company who are competing to take over Greate Bay³
Casino Corporation, the parent company of Sands. The contest pits the Pratt brothers of Dallas who are hotel operators, and the Bass family of Fort Worth who control an oil and gas empire against Williams Electronics, Inc., a video-game manufacturer. In the middle are the aforementioned Koffman brothers who are withdrawing from a partnership with the Pratts who indirectly control 57% of the Sands. The Basses are lending money to the Pratts to buy out the Koffmans who had agreed to sell their interest to Williams, Inc. Williams has filed suit to block the

¹ Wall Street Journal, April 29, 1982.

² Wall Street Journal, April 27, 1982.

³ Wall Street Journal, January 28, 1983.

arrangement. Williams entered the Atlantic City picture in 1982 when the Koffmans found themselves in a financial squeeze due to losses at the Sands casino-hotel in Las Vegas which they, with the Pratts, also control.

In other recent developments, the Casino Control Commission and the Division of Gaming Enforcement have demonstrated a will to act forcefully against casino violations of statutory and regulatory provisions dealing with credit and complimentary fares. The Commission fined Caesar's Boardwalk Regency \$257,000 for what it termed flagrant violations of the law and even more flagrant defiance of the regulatory authority of the Commission and its agents.¹ The Division of Gaming Enforcement had charged that Caesars had unlawfully accomodated Gaetano Caltagirone a wealthy Italian patron, by taking \$1.2 million in IOU's to the patron's hotel room rather than have him settle his debts at the casino cage as required by law; that Caesar's accepted three, improperly dated, \$400,000 checks contrary to law; that the patron had gambled from inside the pit area, contrary to law; and that casino security guards had deliberately obstructed attempts by Commission inspectors to monitor the wagering. An administrative judge who heard the charges had recommended a fine of \$79,500. The Commission, in imposing the higher figure, the largest fine yet imposed on an Atlantic City casino, stated that the increase was justified because of the serious nature of the violations and because top executives (vice-president of casino operations, acting casino manager and assistant to the treasurer) were personally involved.

With respect to two other casinos, the Division of Gaming Enforcement recently filed charges with the Commission accusing Playboy and the Sands of accepting improperly drawn checks from a group of high-rollers from Hong Kong and of failure to record properly complimentary air fares given to them. Among the charges were that Playboy accepted \$1.9 million of checks from the group, of which

¹ Wall Street Journal, January 5, 1983.

\$660,000 were improperly written and that the Sands accepted \$1.3 million in checks improperly prepared. The separate complimentary air fares extended that were not properly recorded amounted to \$77,400 by Playboy and \$325,000 by the Sands.¹

Evaluating the Corporate License Applicant

Guy S. Michael, in an article examining factors to consider in evaluating the suitability of a corporation for a casino license, sheds some light on the evaluation process in New Jersey.²

The Casino Control Act requires the Casino Control Commission to take appropriate steps to ensure that licenses, certificates and permits are not issued to unqualified persons. In the case of a casino license applicant, an unqualified person is one who cannot establish by clear and convincing evidence a "good reputation for honesty and integrity."³ Thus, character plays a role of major importance in the license evaluation process. Evaluation of the character of an individual applicant for a license can be difficult enough; in the case of a corporation, that difficulty is multiplied many times.

Regulators are divided in their view of the way in which they should be evaluating corporate suitability in certain regulated areas. The predominant view of those courts and agencies which have addressed the question is that corporate character is determined by those who control the corporation. The regulator may look beyond the corporate name and take notice of the character of the individual owner.⁴ or look through the corporation to ascertain if the purported owner is a mere figurehead or facade for a person who would not be deemed qualified.⁵ According to Michael, the leading case on this question in New Jersey is Trap Rock Industries, Inc. v. Kohl,⁶ where the court addressed the issue of whether an

¹ Wall Street Journal, January 20, 1983.

² "Whose License Is It Anyway?--The Evaluation of the Suitability of a Corporation For a Casino License." 6 Seton Hall Legislative Journal 41 (1982).

³ S. 5:12-84(c).

⁴ Mansfield Journal Co. v. FCC, 180 F. 2d. 26, 37 (D.C. Cir. 1950).

⁵ Metropolitan Motors v. State of New Jersey, 39 N.J. Super. 208, 120 A. 2d. 776 (App. Div. 1956).

⁶ 59 N.J. 471, 284 A. 2d 161 (1971), cert denied 405 U.S. 1065 (1972).

indictment against the principal stockholder reflected the character of the corporation itself. In so affirming, the court stated, "A corporation, as such, has no moral character. The moral responsibility of a corporation is one and the same with the moral responsibility of the individuals who give it direction..."¹ The indicted principal held 80% of the capital stock and was Chairman of the Board of Directors. Trap Rock had argued that other individuals handled its day to day operations but the court, obviously, would have none of that argument.

Michael asserts that Trap Rock represents the best articulation of the majority view (i.e., that the corporate character is determined by the character of those who control the business entity). "It is a perspective from which unsuitable persons are prevented from engaging in protected activities by hiding behind the corporate form."²

There is, however, a minority view which Michael feels is worthy of consideration, especially in the context of casino gambling. The best expression of this view is found in an English decision: The Queen v. Knightsbridge Crown Court Ex parte International Sporting Club (London) Ltd. and Palm Beach Club Ltd.³ In this 1981 case, the court considered a decision of the licensing authority cancelling gaming licenses held by certain companies on grounds that: (1) the companies were not fit and proper persons, (2) the holding company, for whom the licenses were held, was not a fit and proper person, and (3) the clubs had been used for unlawful purposes. While the appeal was pending, the stock of the companies was transferred to other firms. Subsequently, the Crown Court refused to consider the restructured holding company to be a relevant consideration. The gaming authorities had argued that "what is a fit and proper person can only be judged by past conduct because every person is a fit and proper person at one moment, and you have

¹ 284 A. 2d., 166-167.

² Michaels, supra, p. 47.

³ Nos. 163-81, 191-81 (Q.B. Div'1. Ct. June 5, 1981).

to look and see what they have done in the past to judge whether they are fit and proper persons....Well, there it is. We have come to the conclusion and we are¹ quite satisfied that this is the only proper way to approach this matter." Although the names of the companies had changed, the court said it remained that each company is tainted, each has misconducted its affairs in the past and "it is only by past conduct that we can judge it." Accordingly, the court found them not fit and proper persons to hold a license by reasons of the past misconduct.

On appeal, the Queen's Bench Divisional Court adopted a middle ground, quashing the Crown Court's rationale but maintaining the orders of the Licensing Justices cancelling the licenses. The Queen's Bench Divisional Court held that "past misconduct by the license holder will in every case be a relevant consideration to take into account when considering whether to cancel a license. The weight to be accorded will vary according to the circumstances of the case." But, it noted, while some cases of wrongdoing may be so flagrant and so well publicized as to preclude public confidence being restored by a restructuring, other less serious² breaches may be capable of being cured by such action.

Applying these views to the New Jersey Casino licensing procedure, Michael asserts that two elements figure in the evaluation of the character of a license applicant: (1) prediction, i.e., estimating the extent to which the applicant can be trusted to engage in the licensed activity in a proper manner, and (2) the public's trust and confidence in the integrity of the licensed activity.

The dominant factor in making the predictable judgment, according to Michael, is past conduct. The Trap Rock approach is particularly compelling in this respect. "Clearly, the best gauge of the future conduct of a corporation is the prior conduct of those persons who will be directing the corporation through the

¹ Ibid., p. 15-16, quoting Crown Court.

² Ibid., p. 17.

license term. If prior transgressors have been excused from the corporate body, their influence is no longer a factor in assessing the probability of future corporate compliance.¹

As to the second element cited above -- the public's trust and confidence in the integrity of the licensed activity, Michael concedes that an argument may be made that the retention of that trust and confidence requires more than a regulatory process that relies on an evaluation of the past to speculate on future behavior. In this context, the rationale of the Queen's Bench Court in the Knightsbridge decision is relevant. "There may be cases in which a corporation so sullies its name through previous wrongdoing that public trust would be eroded by licensing of that company even after the wrongdoers were removed."² In short, a negative public image of a particular company can become a factor of legitimate concern to a regulatory body and will consequently affect its decision to vest or not to vest that company with the public's trust.

To date, as indicated by previous discussion, the Casino Control Commission has conditioned the issuance of casino licenses to corporations on the removal of offending parties from the body of the corporation. Specifically, Caesars Boardwalk Regency Corporation was issued a license on the express condition that the chairman and vice-chairman of the board of directors step aside. Similarly, Bally's Park Place, Inc. was issued a license on the condition that its founder and chairman of the board resign. Other licenses were issued upon the removal of certain individuals from the casino operations. Most recently, the Playboy Casino was directed to sever its ties with its founder and principal owner.

¹ Michael, supra, p. 51.

² Ibid.

The importance of the character of the applicant for licensure extends beyond its role as a factor in judging the predictability of conduct or in generating the public's trust and confidence in the integrity of the licensed activity.

Dombrink states that one certain effect of the transformation of the casino industry from a tarnished industry to one having legitimate operators is that it allowed previously wary investors and lenders to participate in the activity.

As a result, there is a ripple effect as the growing respectability discourages the imputation of deviance to the casino industry. *** When important financial institutions stop resisting the gaming industry, it narrows the base of those who might assign it a deviant identity.¹

In short, interest in organized crime influence in the casino industry is reduced to those agencies specifically charged with organized crime control. Or, as expressed by one investment official, the ability to make damaging accusations is, by necessity, limited to those who have access to confidential information:

...we also maintain the view that the gaming industry, as it is called, has the potential to be one of the high growth segments of the economy during the next five years...We believe that there are several well-regarded companies with good performance records in this industry, and that such companies represent a potential universe for long-term investment in casino gaming's growth. The last assertion does not, however, imply that the industry today is necessarily totally free of some undesirable participants...the historical facts all seem to indicate that early development interest and financing for some Las Vegas hotel-casinos were, if not dominated, at least partially influenced by some organized crime elements. All of this obviously poses a problem for fiduciaries and for the analysts who advise them. In essence, the problem boils down to the following: securities analysts have neither the expertise, the inclination, the resources, nor the time to conduct investigations in the law enforcement field, and it is thus only possible to make judgements and assumptions from a distance - based on interviews with, and on general reputations of, top management in each company. There can never be any guarantee that the industry has completely outgrown some of its tainted roots, but because of close scrutiny and regulation by various governmental agencies, and because of the need to rely on public capital for expansion, we believe that for most of the major companies in the industry this concern is no longer a primary consideration.²

¹ Dombrink, pp. 144-145.

² Harold Vogel, "Gaming Industry Commentary: Prospects and Perspectives," Institutional Report, Securities Research Division, Merrill Lynch, Pierce Fenner & Smith, Inc., August 9, 1978.

Magnitude of Licensing Task

The magnitude of the Division's task in the licensing process is illustrated by statistics on licensing applications. During the first 35 months of casino operations, 58,920 individuals filed applications for licensure as casino-¹ hotel employees. All of these applicants had to be investigated. The Division notes that about 25% of the investigations involve hotel employees such as maids and waitresses who have no association with the casino operation. Over the same period the Division had received 24 gaming-related service industry applications and 419 nongaming-related service industry applications.² The flow-chart below summarizes the stages through which each application for a license passes before final recommendations are made.

FLOW CHART LICENSING PROCESS DETAILED

Employee Licensing

Stage 1: Prospective employee obtains Personal History Disclosure Form II from Casino Control Commission.

The 60-page form must be filled out with complete historical background, including information on family, education, certificates from dealer schools and authorization to check financial status at bank. The application is returned to the Commission with the \$125 fee.

Stage 2: Entry is logged in. Applicant is photographed and fingerprinted by the Division of Gaming Enforcement.

Application is turned over to the Division's 3-way unit for automatic checks with the FBI, State Bureau of Investigation, N.J. State Police Bureau of Intelligence, National Credit Rating, National Crime Information Center and State Crime Information Center. These automatic checks are logged into the Division's data processing system.

¹ "The Division of Gaming Enforcement: Keeping the Casinos Crime-Free." Public Gaming Magazine, May, 1981, p. 38.

² Ibid.

Employee Licensing (cont'd)

Stage 3: Review unit of employee licensing section determines if further investigation required. Field investigations (which require 9-1/2 man hours per applicant) are required if any derogatory information is discovered during automatic checks and for any employee seeking licensure as a pit boss or higher.

Stage 4: Final review by attorney.

Copy of report sent to Commission and to applicant.

If affirmative, applicant licensed.

If objection to licensure, applicant can appear before the Commission and request hearing on suitability for licensure.

Entity License

Stage 1: A new company which seeks to operate a casino must file a business entity disclosure form with the Commission, accompanied by a non-refundable \$100,000 check.

Any person who is either a qualifier (owns 5 percent of company stock) or a personal (exercises some position of influence over the company) must submit a Personal History Disclosure Form I.

Stage 2: Forms are forwarded to the Division. A supervisory attorney and investigator is assigned to each entity license application. All qualifiers and personals of company are thoroughly checked. The investigation of company covers 10 years back from date of filing, inquiry into personal, business and financial integrity of company.

A source of funds check for ongoing project is also conducted, as well as an investigation of the financiers.

Stage 3: A written report is filed with Commission after investigation is completed (average length of investigation is two years).

Stage 4: Commission sets up hearings to decide whether to issue licenses to company and/or qualifiers.

Note: (1) Company is billed monthly for man hours expended on investigation.

(2) Company must supply Division with all information needed and make all individuals involved with company available for interview.

Ancillary License

Stage 1: Any business entity which wishes to conduct business with a casino must be licensed. The service industry must file a business entity disclosure form with the Commission. Key individuals associated with the company must file Personal History Disclosure Form II.

Stage 2: The Division recognizes two categories of service industries:

I. Gaming related companies must apply to the Commission before they are entitled to do any business with a casino. While its investigation is pending, the company must petition the Commission to do business.

II. Non-gaming related companies can do business with a casino on an ongoing basis prior to licensure providing that they have filed an application to be licensed. The casino which they opt to do business with must provide the Division with a contract approval form for review to ensure that the terms are reasonable.

Written reports are filed with the Commission after investigation is completed.

Labor Union Registration

All labor unions, although they are not required to be licensed, must register with the Commission if they seek to represent any licensed employee.

The Division investigates the registrants to ensure they meet the standards of good character and fitness as mandated by the Act.

Source: Public Gaming Magazine, May, 1981, p. 39.

Political Ties to Casinos

1

An extensive article published in the New York Times in late 1980 focused on the numbers of persons employed by the Atlantic City casinos who had political backgrounds or had ties to politicians. The article stated that according to state records and interviews with the former public officials, of some 30 former public employees, 16 former state or federal officials were hired in high-salaried positions or as lawyers. In addition, seven former state legislators, three friends

1 "Political Links Evident in Hiring for Jersey Casinos," November 30, 1980, p. 1.

of the Governor and four others, either relatives or friends of officials, were on the casino payrolls. Also, seven legislators reported that they or their relations owned stock in Atlantic City casinos or in companies that hoped to build there.

All of those hired by the casinos who were in state government left their public positions before July 1980, when the Legislature imposed restrictions on such employment. A two-year waiting period after leaving state service now applies to the Governor, legislators, judges, appointees to state agencies or their employees before they may accept casino employment.

On the local level, an earlier published series of articles in the New York Times¹ described the ties between the industry and public employees. Scores of officials and employees of Atlantic City were reported as owning stock in casino companies, or having been involved in the purchase or sale of property for casino use, or having other financial links to the casino industry. Five of the nine members of the city's Planning Board and three of the seven Zoning Board members were cited in the series as having invested in, or had property or financial dealings with the casino industry. Further, members of those two boards, responsible for key zoning decisions, were reported as having been routinely involved in land deals with the casinos which were the source of substantial personal benefit.

Among local officials mentioned in the series as having joined the industry were the former Director of the Housing and Urban Renewal Authority and the former Director of the Planning Board. The former official, as reported in the Times series, while in the Authority's employ, helped negotiate the sales of two urban renewal tracts to casinos.² Subsequently, he became executive director of the casino-hotel association. The latter official was reported as having joined a casino development company after advising the company as to how it might circumvent³ municipal requirements which barred the use of a site for casino development.

¹ June 15, 16, 17 and 18, 1980. Also cited in Abrams Report, supra, pp. 20-21.

² June 15, 1980. Also cited in Abrams Report, p. 21.

³ June 16, 1980. Also cited in Abrams Report, p. 21.

Opponents of casino gambling frequently refer to these hirings as evidence that the casino industry quickly bought the influence necessary to dominate local politics and assure itself of preferential treatment in Trenton.

New Jersey Senator Charles Yates, a Democrat and Chairman of the Joint Committee on Ethical Standards, was quoted by the Times as saying:

Is this whole industry going to continue wheeling and dealing in politics? It is a disturbing pattern and not what the public agreed to when it voted to try casino gambling.¹

Albert Merck, a Republican and a former member of the Casino Control Commission, was also quoted:

"They're trying to buy influence *** That's how they were brought up in Nevada, where the industry runs the state. *** Within the industry the reputation of the state is that you have to know somebody in government or politics to get what you want. Whether justified or not, that's the impression."²

Yet, as the Times article makes patently clear, "None of the employees or lawyers involved violated any law by taking jobs with the casinos or representing them as attorneys before state or local agencies."³

In defense of the casino hirings, it can be argued that every business or industry seeks favorable treatment be it at city hall, the state capitol or Congress. Any firm with a large investment at stake is going to hire persons knowledgeable in government and the legislative process to lobby its case, or hire the most skilled lawyers to represent its interests before regulatory bodies.

William J. Downey, Executive Director of the Atlantic City Casino Hotel Association, defends the casinos' policy of hiring former government officials:

"I don't see anything sinister in that. They hire people who have knowledge of government and it stands to reason that you buy the best talent available."⁴

¹ New York Times, November 30, 1980.

² Ibid., p. 1, p. 40.

³ Ibid., p. 40.

⁴ Ibid.

Inasmuch as state law requires each casino to use a New Jersey law firm, Downey maintained that every prestigious law firm in the state had someone connected directly or indirectly with government.

The names and backgrounds of 21 former officials and politically active persons employed by casinos were published in the Times article.

Casinos and the Abscam Operation

Abscam is a code word that refers to an FBI undercover operation originally designed to snare criminals seeking to sell stolen art or securities. The cover vehicle was a fictitious Arab company, Abdul Enterprises, based on Long Island and ostensibly owned by rich Arabs in search of American business opportunities. The ploy to catch the wrongdoers was for the FBI to use an informant to make the contacts with the criminals and to use its own agents disguised as Arab executives representing Abdul Enterprises who would then lure the criminals into meetings that were secretly recorded and video taped. In the language of the police, the operation was a "scam" - a method of cheating or defrauding another party. Hence, Abscam (from Abdul and scam).

Abscam was operative through most of 1978 without success but late in the year there occurred a development that changed the course of the Abscam operation. Angelo Errichetti, Mayor of Camden, New Jersey, who was also a State Senator, learned of the existence of the wealthy Arab company with seemingly unlimited funds. Unaware of the scam, Errichetti met with Melvin Weinberg, the FBI informant. Weinberg, convicted of mail fraud in 1977, had agreed to work for the FBI in return for a sentence of probation. Weinberg had established himself as a business agent for Abdul. When Errichetti met with Weinberg, he told the informant, as well as FBI agents posing as Arab executives, that he could help Abdul obtain a casino license in Atlantic City ahead of other waiting applicants because he controlled three of the five persons on the Casino Control Commission. Subsequent investigations have shown that Errichetti was lying but federal authorities apparently failed to make

1
a proper evaluation of his claims at that time. Nonetheless, the federal scam was continued, with Weinberg prodding Errichetti who eventually discovered a bona fide commissioner in Kenneth MacDonald, the vice-chairman. A series of meetings ensued at which there were unsuccessful attempts to bribe MacDonald. At a subsequent un-
2
recorded meeting, Weinberg and Errichetti, convinced that MacDonald would not take a bribe, agreed to split the bribe money between themselves. The details of the informant's scamming of the scammers while framing Commissioner MacDonald are re-
3
counted in Steven Brill's exposé.

Subsequently, as reported by Brill, in 1982, after Mayor Errichetti had been convicted on a number of Abscam counts, he testified before a United States Senate Select Committee that he had used MacDonald, that MacDonald had never agreed to do anything, that MacDonald had never received any money, and that he and Weinberg, the informant, had divided the money. Brill also reported that during a grand jury proceeding in the MacDonald case on June 4, 1981, John McCarthy, the disguised FBI agent who made the bribe, testified that there was no evidence that
4
Commissioner MacDonald ever received any money. Yet MacDonald was indicted on June 18, 1981 for conspiring to accept, and for accepting, a \$100,000 bribe. Brill, referring to FBI internal memos, disclosed the rationale for the federal
5
decision to prosecute MacDonald. but the Commissioner succumbed to cancer before going to trial.

Brill also discusses the case against United States Senator Harrison Williams of New Jersey which indicates the extent to which federal prosecutorial

¹ See Steven Brill's article under Headnotes, The American Lawyer, January 1983, p. 2. Errichetti claimed the three commissioners were his nominees, identifying them as "Collozzi," "Roth," and a "black man." In fact, Errichetti nominated no one to the Commission; no member of the Commission was named Collozzi or Roth; and the only black on the Commission was a woman.

² FBI regulations require an informer to record such conversations.

³ Brill, supra, pp. 74-75.

⁴ Brill, supra, p. 75.

⁵ Brill, supra p. 75 referring to memoranda of Gerald McDowell, U.S. Justice Department.

officials were willing to go to entrap the senator, notwithstanding the refusal of the U.S. Attorney for New Jersey to press for an indictment because of lack of evidence. The finding against Senator Williams was not based on a casino-related bribe although there was evidence introduced at William's trial of an attempt by the senator to persuade the Chairman of the Casino Control Commission to look favorably on a particular license applicant. It is this evidence that casino opponents cite when they claim Williams's conviction was tied to the casinos. In fact, however, Williams was convicted on counts related to his promises to obtain government contracts for a Virginia mining company in which he had a concealed interest. Brill believes that the most important factor in Williams's conviction was his performance on the witness stand. "(H)e came across as a stupid, pompous, arrogant, shady politician. In fact, Williams seems to have been so arrogant and stupid that he was oblivious to the trouble he was in."

The problem with the Abscam probe, as seen by many critics, is that the massive force and effort exerted by the federal investigators at enormous cost to the taxpayers did not infiltrate any ongoing criminal activity. Rather, it created that activity and then set up a sort of integrity test for various public officials aimed at seeing if they would participate. Indeed, one of the federal authorities, Robert Stewart, the Justice Department's Organized Crime Strike Force Chief based in Newark, N.J., is reported to have complained in two separate memoranda that the FBI informant Weinberg had taken charge of the case. In one memorandum, Stewart wrote that "it is the informant (Weinberg) who is dictating the course of this investigation" and in a later memorandum he complained that "the informant persists

¹ Brill, supra, p. 77.

² Stewart memorandum of October 31, 1979 to David Margolis, U.S. Justice Department Chief, Organized Crime and Racketeering Section, quoted by Brill, supra, p. 77.

in formulating the criminal scheme rather than simply allowing the suspects to do
this.¹"

In condemning the prosecutors who directed Abscam, Brill asserts:

There is now strong evidence that the prosecutors in charge of Abscam--Philip Heymann, Irvin Nathan, and Thomas Puccio--ruined the life of at least one innocent defendant (former New Jersey Casino Control Commission vice-chairman Kenneth MacDonald), unfairly convicted several other utterly unsympathetic but not appropriately prosecutable public officials (such as Senator Williams), and then stained the reputations of those professional prosecutors who had the guts to say, in internal memos of dissent, that the simple integrity of the system was more important than a sexy indictment or conviction.²

U.S. Senate Select Committee Report on Abscam

A select committee of the United States Senate was established in March, 1982 to examine the conduct of the United States Government in the Abscam investigation and other undercover operations. The select committee reported its findings and recommendations to the Senate on December 17, 1982.

In its report, the select committee concluded that the FBI operation was managed sloppily but the FBI had a basis for offering the officials involved in the inquiry the opportunity to commit crimes. In its summary, the select committee stated:

None of the individuals who attended a videotaped meeting with FBI undercover operatives had been targeted by the FBI before his name had been raised by an unwitting middleman.

* * * *

...each public official who received money directly or indirectly from an FBI undercover agent understood that the payment was a bribe. Each middleman who induced a public official to meet with an FBI undercover agent understood that the purpose of the meeting was to enable the official to receive a bribe.³

¹ Stewart memorandum of January 3, 1980 to Gerald McDowell, Deputy to Margolis note 2 supra, quoted by Brill, supra, p. 77.

² Brill, supra, p. 73. Philip Heymann was at the time head of the U.S. Justice Department's Criminal Division; Irvin Nathan was then Heymann's deputy; Thomas Puccio was at the time head of the U.S. Justice Department's Organized Crime Strike Force, Eastern District, based in Brooklyn, New York.

³ New York Times, December 18, 1982.

While the select committee agreed that "in this era of increasingly powerful and sophisticated criminals, some use of undercover technique is indispensable to the achievement of effective law enforcement,"¹ it also concluded that use of such techniques can induce the commission of a criminal act which a law-abiding citizen would otherwise not have committed:

The select committee also finds that use of the undercover technique creates serious risks to citizens' property, privacy and civil liberties, and may compromise law enforcement itself. Even when used by law enforcement officials with the most honorable motives and the greatest integrity, the undercover technique may on occasion create crime where none would otherwise have existed.²

Among several flaws in the government's operation cited by the select committee were: the absence of official guidelines governing undercover operations, the failure of FBI field agents to review, to catalogue and to report recordings and other evidence in a timely and adequate manner, and the failure to keep FBI Headquarters adequately informed about the nature of and developments in undercover operations.

One of the examples of principal deficiencies cited by the committee was the decision by field agents to use as an informant a criminal whose informant file contained an order from FBI Headquarters terminating his use as an informant because of the commission of felonies while in that role.³ Field agents did not review the file, did not discuss the wisdom or need for special controls over the informant and did not obtain approval from Headquarters on their decision to use the informant. Subsequently, the informant roamed the country for several months half a continent away from his FBI contacts and supervisors, taping conversations, soliciting and receiving gifts from suspects which he converted to his personal use. The select committee noted that decisions as to which tapes would be heard were made in part

¹ Ibid.

² Ibid.

³ The informant is identified as Melvin Weinberg, see Brill, supra.

on the basis of what the informant told the field agents about the tapes. Later, as the select committee reports, the informant perjured himself in testimony before grand juries, in trial court proceedings, and before the select committee, when asked about solicitation and receiving of gifts.

The select committee also was concerned about the uncorroborated claims of corrupt middlemen upon whom the FBI relied in setting the stage for bribe offers, which resulted in bringing innocent parties before concealed video cameras:

The F.B.I.'s consistent practice in Abscam was to rely, in approving bribe offers, upon the representations of middlemen that specified public officials would accept bribes. Some of those representatives were often uncorroborated in every sense of the word: The F.B.I. had no extrinsic evidence that the named public official had previously accepted or solicited a bribe or had committed any other crime, and the F.B.I. had no extrinsic evidence that the middleman knew the public official well enough to know whether his own representations about that public official were true. In some cases, the F.B.I. relied on the representations of a middleman with no record of reliability for producing corrupt public officials. In some cases the F.B.I. continued to rely on middlemen even after they had proved to be unreliable in this regard. As a result of the F.B.I.'s unduly unquestioning reliance on middlemen, at least one (and apparently more) clearly innocent public official was brought before the hidden cameras.¹

Other shortcomings in the FBI operation recited by the select committee are: the failure, from the inception of the operation, to premark tapes for identification and control, to retrieve them daily, to promptly and accurately transcribe them, to listen to them, or to log and summarize them. Further, memoranda were prepared making misstatements about dates, participants and subject matter of material events. Neither monthly nor biweekly reports were sent to FBI Headquarters.

Lastly, the select committee recommended that Congress consider legislation to (a) compensate persons (other than informants or government personnel) injured in their person or property as the result of the Abscam investigation, and (b) to create an affirmative defense of entrapment providing for acquittal of a defendant when the evidence shows the defendant was induced to commit an offense.

¹ Ibid.

A Unique Internal Control Problem

Despite the long history of casino gambling in Nevada and the more recent experience in New Jersey, Michael Santaniello, an official with the New Jersey Casino Control Commission, states:

There are few people who understand or appreciate the system for controlling internal casino operations and the unique characteristics that make control so difficult. More importantly, this lack of understanding is shared by those who are responsible for managing, operating, auditing, and regulating casino gambling. *** Few of these individuals comprehend the overall system of control that is necessary, or why a given procedure should be followed, or what makes controlling a casino different than controlling any other business.¹

A casino neither records the initial exchange of money for gaming chips at the gaming tables nor records each win or loss incurred in the myriad of gaming transactions occurring at the tables. Since there is no record of how much has been won or lost, no one knows how much is at the tables at any point in time during the day. It is this peculiarity that makes a casino especially vulnerable and creates substantial problems in accurately accounting for a casino's revenue, in effectively auditing casino operations, and in detecting and preventing theft by casino management, employees and patrons.²

A casino must rely on aggregate amounts of cash, checks and gaming chips to determine its gross profit or loss. Each gaming table contains an initial inventory of chips when the gaming day begins. These chips are sold to patrons who pay for them with cash or checks, and who use the chips to make bets. During the games, the chips representing lost bets are collected by the dealers and placed in

¹ Michael A. Santaniello, "Casino Gambling: The Elements of Effective Control," 6 Seton Hall Legislative Journal 23 (1982). Santaniello, an Attorney, is Deputy Director of Operations, Division of Financial Evaluation and Control, New Jersey Casino Control Commission. He is former Senior Counsel in the Governor's Office of Casino Policy and former Deputy Director of Licensing Division, Casino Control Commission.

² Ibid., pp. 23-24.

the inventory. Winning bets are paid from that inventory. Thus, to calculate its daily gross profit or loss at a single table, the casino uses the aggregate amounts of the foregoing described exchanges which in a simplified manner are as follows:

1. Chip inventory at opening	\$100,000
2. Less chip inventory at closing	<u>-80,000</u>
3. Chips outstanding	<u>\$20,000</u>

* * * * *

4. Table take in cash and checks	\$50,000
5. Less chips outstanding	<u>-20,000</u>
6. Gross profit	<u>\$30,000</u>

Santaniello cautions that the accuracy of such a calculation is based on several assumptions:

1. The opening inventory of chips is a proper count and record.
2. The chips outstanding were redeemed or paid to patrons.
3. All losing bets were properly collected.
4. All checks and cash paid at the table were properly exchanged by that dealer for chips.
5. All checks and cash collected by the dealer reached the counting process.
6. There has been no misappropriation of chips, cash or checks during the day.
7. The game was conducted according to prescribed rules.
8. Any equipment used to operate a game was fair and was used according to the rules.
9. Any additional supply of chips carried to or from the cashier's cage reached its destination and was properly recorded.

Thus, as Santaniello stresses, the casino's gross profit or loss, with accompanying tax consequences, depends on the continued integrity of those assumptions. If the dispersal, collection or transfer of cash, chips or checks is inaccurate, fraudulent or otherwise improper, the aggregate amounts reaching the counting process, and the eventual gross profit or loss tabulations, will be false. More importantly, an impropriety would not be evident from the final tabulation because records of individual gaming transactions are not kept. "A casino never learns if it has been victimized unless a theft or impropriety is detected as it is committed."¹

Santaniello states that those responsible for developing internal control systems for auditing, and for regulating the casinos, usually concentrate on the accounting and internal control area. This focus leads to close attention to procedures that affect how cash is collected and stored at tables, how it is counted and stored, how chips are transferred to and from the tables, and what records and documents are created in the cashier's cage and count rooms.

While each of these areas are essential to control, Santaniello states that an internal control system limited to such traditional control methods lacks the vital control needed over activities occurring on the casino floor, where lies "the most vulnerable area of the casino, namely, the activity occurring at the table games."²

Despite compliance with the accounting and internal control system, control of assets can still be impaired by rigged equipment or a dishonest dealer. Such malfeasance cannot be detected by the traditional control mechanisms. And while this observation may appear to be quite apparent, Santaniello asserts, "It is not appreciated in practice. Casino games and casino equipment are treated like the

¹ Ibid., p. 26.

² Ibid., p. 27.

stepchildren of accounting and internal control and are given little, if any, attention."¹ Consequently, the control of games and equipment are left by mystified regulators "to those who have been supervising them for years."

Still another misunderstanding related to control of casino operations involves the importance of the role that records and documents play in the control system. Casino management frequently applauds favorable audits and documents as evidence of the continuing integrity of the process. But Santaniello disagrees:

A person can audit every piece of paper generated by a casino and still never detect whether theft, embezzlement or skimming has occurred.² (emphasis added)

The records and documents generated in a casino are not direct control mechanisms on the activities occurring on the casino floor. The real control, according to Santaniello, is people watching people. One individual acts as a check and balance on the activities of another. Ideally, the security officer serves as a check on the actions of a cashier, the dealer serves as a check on the actions of a security officer and the supervisor serves as a check on both. But this method of control is vulnerable to collusive activity and where several individuals involved in a transaction are in collusion, the control system is defeated. "Unless the scheme is uncovered during its operation, its occurrence would never be detected unless disclosed by those involved."³ Because of this weak link in the chain of control, casinos utilize closed circuit television systems which permit close surveillance of employees' actions during the transactions. Hence, Santaniello stresses the importance of the integrity of the people involved and the essential need to disperse authority among the floor employees so that no person on the floor possesses plenary authority, or even substantial authority, whereby he could direct and

¹ Ibid., p. 28.

² Ibid., p. 28.

³ Ibid., p. 30.

override each individual serving as a check and balance.¹ Ideally, each person involved in a transaction should be delegated authority from an independent superior. Such a system of segregated continuity would permit a lower-echelon employee to act as a check on a higher-echelon employee since they would be responsible to different superiors.

Santaniello goes into some detail in describing how activity at the table games is the most vulnerable and difficult area to control. One of his observations relates to the quality of the control being exercised by supervisory personnel. In his view, the presence of supervisory and surveillance personnel on the floor who must watch the actions of dealers and patrons is simply not enough. Proper training and experience are vital if such personnel are to know at what they are looking. "A person who does not know the substantive rules of the games, the proper procedures for dealing, the common methods of cheating and the movements associated with each form of cheating, and who cannot follow and verify the actions of the dealer provides little control in this sensitive area."²

Even with the existence of qualified supervisory personnel, the quality of control is affected by the amount of activity a supervisor is responsible for observing and controlling. "No matter how qualified a person is, he can observe so much at one time. By contrast, it takes seconds for a dealer to misappropriate gaming chips or to cheat at the games."³

The area of control usually afforded the least amount of attention involves the equipment used in the casino games. Each game requires equipment that can affect the honesty and fairness of the game, e.g., cards, dice, wheels.

¹ Ibid., p. 32.

² Ibid., p. 33. Santaniello cites a test given to blackjack floor people at a Canadian casino in which the majority of those tested failed to answer correctly a simple question related to the display of a blackjack hand.

³ Ibid.

Santaniello states that an effective system of equipment control must have the three basic components: (1) specific standards for each piece of equipment, (2) an appropriate inspection process that will ensure conformance to standards, and (3) procedural controls to safeguard transportation, storage and use of equipment.¹

The standards are necessary to prevent and detect certain types of tampering (e.g., the required use of transparent dice rather than opaque dice). But formal standards are valueless without an inspection process to monitor any tampering of equipment both before and after its use; otherwise, tampering may well go undetected. Likewise, the transportation and storage of equipment must be controlled to protect the integrity of the equipment.

When the foregoing elements of effective control are applied to provisions of the New Jersey Casino Control Act, Santaniello gives a passing grade to the Legislature's understanding of the subtler vulnerabilities of an internal control system. Thus, by requiring an applicant for a casino key employee license or a casino employee license to prove by clear and convincing evidence that he/she has "good character, honesty and integrity,"² the Legislature acknowledged the dependence of effective person to person control. An employee's training, ability and experience, as elements in the control system, are reflected in statutory provisions that require an applicant to demonstrate "sufficient business ability and casino experience as to establish the reasonable likelihood of success and efficiency in the particular position involved."³ As additional assurance, the Legislature conditioned the authorization of a licensee to operate a casino upon proof "that casino personnel are properly trained and licensed for their respective responsibilities."⁴

¹ Ibid., pp. 35-36.

² NJSA, s. 5:12-39(b)(2) for key casino employees and s. 5:12-90(b) for casino employees.

³ Ibid., s. 5:12-39(b)(3); s. 5:12-90(b).

⁴ Ibid., s. 5:12-96(a).

Statutory provisions also vest the Casino Control Commission with broad operational jurisdiction. The Commission must promulgate regulations covering areas of operation, rules of the games, odds and devices allowed, and method of operating games and devices.¹ Regulations also must address specifics of management controls, as well as tables of organization and responsibility, and internal fiscal affairs and controls.² Extensive control of game rules, equipment and credit transactions are intended.³

Detailed information of control systems must be submitted by the licensee to the Commission for approval.⁴ Such information must address accounting controls, job descriptions, chain of command, control of cash, checks and chips, cashing checks, redeeming chips, security controls related to handling and storing equipment, rules of the games and responsibility of personnel involved in games.⁵ All of this information must be reviewed by the Commission to determine conformity to the statute and regulations and to ascertain the adequacy and efficacy of the proposals.

Santaniello feels that in the many detailed and specific requirements dispersed throughout the Casino Control Act, the Legislature has acknowledged the unique nature of gaming operations and the methods needed to ensure, to the greatest extent possible, an effective system of control over the activities occurring on the gaming floor.⁶

¹ Ibid., s. 5:12-70(f).

² Ibid., s. 5:12-70(j), (1).

³ Ibid., s. 5:12-100-101.

⁴ Ibid., s. 5:12-99.

⁵ Ibid., s. 5:12-99(a)(1) to 99(a)(17).

⁶ Santaniello, supra, p. 39.

Credit Policies

Casinos have come under sharp criticism for alleged abuses of the credit provisions in the Casino Control Statute. In testimony at a recent hearing before the New Jersey State Commission on Investigation, the credit system at the casinos was described as so lax that it is routinely abused by members of organized crime and by casino employees.¹ A State Police official testified that casinos have issued more than \$1.2 million in credit to 25 reputed organized crime figures and that over a 13-month period in 1979-80, credit scams cost the casinos \$7.9 million.² The official said that the state had information indicating that credit issued by casinos was used to finance loansharking and narcotics operations by organized crime. Attorney General Irwin Kimmelman stated that "a re-evaluation of the entire casino credit system and the law under which it operates is absolutely necessary to maintain the integrity of casino operations."³

Kimmelman commented that although opportunities for fraud and abuse abound, "casino executives are issuing more and more credit in their fierce competition for gambling dollars."⁴ Casinos wrote off about \$25 million in 1982 for uncollected credit which represents only 1.7% of the \$1.5 billion in total credit issued. Such a loss is tolerated by the casinos because, under the law, they can write off uncollected debts up to 4% of their total revenue and reduce their taxes.

Division of Gaming Enforcement agents testified that the credit provisions of the statute are inadequate to prevent abuses. A credit applicant need give only minimum personal identification and does not have to provide data on his employment, income or other assets. T. Barry Goas, a Deputy Attorney General, testified that the credit control procedures are easily circumvented by any one of a number of scams and that some scam organizers are enlisting the aid of corrupt bank employees to obtain data on innocent people to use in obtaining credit.⁵

¹ Dan Heneghan, "A.C. Casino Credit Policies Questions," Public Gaming, March 1983, p. 39.

² Ibid., p. 44, citing testimony of Lt. Col. Justin Dintino.

³ Ibid., p. 39.

⁴ Ibid., p. 40.

⁵ Ibid., p. 44.

Costs and Disbursements

As indicated earlier, the New Jersey Casino Control Statute establishes a Casino Revenue Fund and a Casino Control Fund. The former fund receives tax payments from the casinos, the proceeds of which are earmarked for specific expenditure purposes. Table 8 summarizes the activity of this fund during the fiscal period 1982-1984.

Table 8. Casino Revenue Fund

	<u>Expended</u> <u>FY 1982</u>	<u>Appropriation</u> <u>FY 1983</u>	<u>Recommended</u> <u>FY 1984</u>
1. <u>Department of Community Affairs</u>			
a. Boarding Home Rental Assistance Program	\$750,000	-	\$750,000
b. Congregate Housing Support - Aged	-	-	550,000
Subtotal - Community Affairs	<u>\$750,000</u>		<u>\$1,300,000</u>
2. <u>Department of Human Services</u>			
a. Pharmaceutical Assistance, Aged and Disabled	\$1,528,445	\$19,500,000	\$25,826,398
b. Lifeline	<u>41,194,639</u>	<u>64,293,810</u>	<u>69,069,910</u>
Subtotal - Human Services	<u>\$42,723,084</u>	<u>\$83,793,810</u>	<u>\$94,896,308</u>
3. <u>State Aid</u>			
Payments for Medical Assistance Recipients	-	-	<u>\$10,500,000</u>
4. <u>Department of the Treasury - Subsidy Programs</u>			
a. Homestead Exemptions	\$80,000,000	\$19,401,700	\$20,500,000
b. Reimbursement - Local Property Tax - Senior/Disabled Citizen Exemptions	<u>7,318,325</u>	<u>25,825,000</u>	<u>30,400,000</u>
Subtotal - Subsidies	<u>\$87,318,325</u>	<u>\$45,226,700</u>	<u>\$50,900,000</u>
TOTAL	<u>\$130,791,319</u>	<u>\$129,020,510</u>	<u>\$157,596,308</u>

Source: State of New Jersey Budget 1983-1984. Governor Thomas H. Kean, January 31, 1983, pp. 383-386.

The cost of regulating the casinos in Atlantic City is borne by the industry. License fees are deposited in the Casino Control Fund and monies are appropriated therefrom to support regulatory duties assigned to the Department of Law and Public Safety, the Division of Gaming Enforcement, and the Casino Control Commission. In both fiscal 1982 and 1983, there were 475 budgeted positions (347 civilian and 128 State Police) in Public Safety and DGE, and an additional 450 in the CCC. The following table summarizes budget activities for the control operation.

Table 9. Casino Control Fund
(Enforcement and Administration Data)

	<u>Expended FY 1982</u>	<u>Appropriation FY 1983</u>	<u>Recommended FY 1984</u>
<u>Department of Law and Public Safety</u>			
Personal Services	\$11,550,614	\$14,065,581	\$14,681,252
Other	<u>6,157,629</u>	<u>7,069,002</u>	<u>8,345,973</u>
Subtotal - Enforcement	<u>\$17,708,243</u>	<u>\$21,134,583</u>	<u>\$23,027,225</u>
<u>Department of the Treasury</u>			
Casino Control Commission	\$277,370	\$305,000	\$305,000
Personal Services, Staff	8,898,429	10,866,514	11,377,925
Other	<u>3,920,462</u>	<u>3,167,931</u>	<u>3,577,485</u>
Subtotal - Administration	<u>\$13,096,761</u>	<u>\$14,339,445</u>	<u>\$15,260,410</u>
TOTAL	<u>\$30,805,004</u>	<u>\$35,474,028</u>	<u>\$38,287,635</u>

Source: State of New Jersey Budget 1983-1984. Governor Thomas H. Kean,
January 31, 1983, pp. 381-382.

CHAPTER VII. THE MASSACHUSETTS LEGISLATIVE PROPOSALS

Eight Current Proposals

Several bills related to the legalization of casino gambling have been heard by the Committee on Government Regulations in recent years, many of them reprints of measures filed in preceding sessions. We shall limit our discussions of legislative proposals to those currently before the Legislature.

Senate, No. 481, filed by Senator Arthur J. Lewis, a bill which would permit a single casino-hotel complex in any city or town in the Commonwealth, upon local referendum approval.

Senate, No. 485, filed by Senator Arthur J. Lewis, the petition of Citizens for the Glen et. al., a bill which would permit a single casino-hotel in the Town of Adams at a site known as Greylock Glen, upon local referendum approval. (The bill is drafted as an amendment to the General Laws and would, if enacted, violate the Massachusetts Constitution, Amend. Art. LXXXIX. Section 3 of the amendment forbids enactment of a general law that applies to a class of cities and towns fewer than two).

Senate, No. 486, submitted by Senator Arthur J. Lewis, the petition of Massachusetts AFL-CIO et al., a bill which would permit a single casino-hotel complex in each of the Towns of Adams and Hull.

Senate, No. 518, introduced by Senator Allan R. McKinnon (by request), the petition of Claudette F. Fitzsimmons, a bill which would permit a single casino-hotel complex in each of the Towns of Adams and Hull, impose a five-year waiting period for any other community interested in licensing a casino and bar any casino from operating within a 50-mile radius of another licensed casino.

Senate, No. 543, filed by Senator Peter C. Webber and Representative Thomas R. Lussier, a bill which would bar any casino gambling in the County of Berkshire.

Senate, No. 544, submitted by Senator Peter C. Webber, a bill which would require both local and county approval for a casino operation in any county.

House, No. 2486, filed by Representative Michael F. Flaherty, petition of the Massachusetts AFL-CIO et al., a bill which would permit a single casino-hotel complex in each of the Towns of Adams and Hull.

House, No. 5110, introduced by Representative Michael F. Flaherty, a bill which would permit a single casino-hotel complex in any city or town in the Commonwealth, upon local referendum approval.

Objectives of Proposals

Three of the foregoing proposals deal with legalization of casino gambling in two specific communities: Adams and Hull. Of the others, one would authorize casino gambling only in the Town of Adams; two would authorize casino gambling in any city or town in the Commonwealth; one would require county participation in any decision to legalize casino gambling; and one would exclude casino gambling in Berkshire County. We shall consider them briefly beginning with the latter proposals.

Senate, No. 543 would prohibit casino gambling in Berkshire County. Since the Town of Adams lies in Berkshire County, the effect that this bill would have is self-evident.

Senate, No. 544 would require the approval of a voter majority in both the host municipality and in the host county as a prerequisite to legalizing a casino gambling operation. Further, if the host city or town abuts another county, the approval of a majority of voters in the latter county is also required. In the event of a negative vote on the question, the question could not reappear on the local or county ballot for a 10-year period. Other sections of the bill apply only if casino operations were legalized: a license would have to be voted on every four years; if local dissatisfaction with the casino operation were to occur, 20% of the citizenry could petition for a repeal of the license; and changes in the operation or in the ownership of a casino would require voter approval.

The key provision, however, is the required county participation in the initial referendum. In 1978, roughly 70% of Berkshire County residents who cast votes in a referendum to allow casino gambling were against the proposition, although the question carried in Adams, the proposed site of a casino facility. Hull is the only other town in the Commonwealth which has given casino gambling a favorable vote (in a strictly local referendum; the question was not on a county ballot). Hull, however, which is in Plymouth County, abuts Cohasset, a Norfolk County

community. Thus, under the provisions of this bill, residents of both counties would have to vote on the question. The effect of this bill, then, is to introduce the regional impact of a proposed casino as one of the measuring components of licensure.

Analysis of the remaining six measures which would legalize casino gambling can be facilitated by reducing them to three designations: (1) The Hull Proposal (Senate, No. 518) which reflects the position of the pro-casino group in the Town of Hull; (2) The General Proposal (Senate, No. 481 and near-identical texts of Senate, No. 485, House, No. 2486 and House, No. 5110) which is similar to the Hull Proposal but/^{does} not include the extensive powers vested in the local licensing authority; and (3) The AFL-CIO Proposal (Senate, No. 486).^{*} It should be noted here that although the texts of all the bills grouped under General Proposal are virtually identical, there are key differences: Senate, No. 481 and House, No. 5110 apply to all cities and towns; House, No. 2486 applies only to Adams and Hull; Senate, No. 485 applies only to Adams. A less important difference is in the time period of the original license: Seven years in House, No. 2486;/^{ten years} in Senate, No. 485 and Senate, No. 518; but in Senate, No. 481 and House, No. 5110, there is a time period of 10 years stated in both the policy declaration and in one of the two ballot questions in section 26 of each bill, and a period of seven years in the other ballot question. Senate, No. 486 contains no time limitations.

On the surface, an initial reading of any of these bills might leave the impression that the draftsmen have provided for strong control measures to be undertaken by state and local licensing authorities. Certainly, the state and local licensing authorities are cloaked with general authority to make such rules and regulations that will accomplish that purpose. But such language is deceptive for it leaves to the licensing authorities the decision as to how strong, how extensive, how pervasive or how inclusive such control measures should be. The New Jersey Legislature, observing the experience of casino gambling in Nevada, decided that it

^{*} The AFL-CIO is also petitioner in House, No. 2486 which is included among bills described as the General Proposal.

was unwilling to leave the language of controls to an untested control agency. It therefore wrote into the Casino Control Act the explicit controls it demanded and there is no question that it has thereby put a heavy burden on the casino operators to run a responsible operation. Compared to the New Jersey statute, the texts of the Massachusetts proposals are more like the white of a separated egg, - there is enough albumen to make an attractive meringue but the nutritive element, the yolk, is missing.

For ease of comparison, the Hull Proposal will be synopsized, section by section, with interjections of comments on how the other bills may agree or differ.

Digest of the Hull Proposal
With Comparative Notations on Other Casino Proposals

Legislative Policy Statement

SECTION 1 of the Hull Proposal contains a declaration of legislative policy on the merits of legalized casino gambling. Each clause may be rephrased in sentence form as follows:

1. When introduced as part of major entertainment complexes, legalized gambling is capable of providing a substantial contribution to the welfare and prosperity of the residents of the state and of the host towns.

2. Legalized casino gambling will significantly increase state revenue.

3. Adams and Hull represent the diversity and geographical interests of the state.

4. Adams and Hull, by nonbinding referenda, have approved of casino gambling.

5. The development of tourist and convention facilities, and the encouragement of new construction of convention, tourist and entertainment centers will offer a unique opportunity for the residents of the state to make maximum use of the exclusive regions for the introduction of legalized casino gambling.

Near identical declarations of policy are contained in the other Proposals (although it appears as a preface to the text of the AFL-CIO Proposal, rather than a section thereof).

The foregoing declaratory language is obviously inspired by the text in the New Jersey Casino Control Act (N.J. S.A. 5:12-1 to 5:12-151. See language in 5:12-1b [1], [2], [3], and [4]). It is, perhaps, more revealing to note the New Jersey declaration of legislative policy and findings which did not inspire the draftsmen of the Massachusetts bills. In Section 5:12-1 of the New Jersey law, at paragraphs b(6) through b(13), there are very strong statements of policy concerning the regulatory role of the state, and the extent of controls necessary to assure public confidence and trust in the integrity of that process. In paragraph b(8), there are definitive declarations that "participation in casino operations as a license under this act shall be deemed a revocable privilege..." and that "...it is the intent of this act to preclude the creation of any property right in any license certificate or reservation permitted by this act,..." Paragraph b(9) expresses the need for regulatory and investigatory powers and duties to be "exercised to the fullest extent possible" to prevent the control of ancillary industries by undesirable elements. In paragraph b(10) the New Jersey Legislature expresses its concern with the ecology of the area impacted by casinos. Paragraph b(11) addresses the need to empower the regulatory agency with review authority over architectural and site plans with respect to their suitability in terms of law enforcement, aesthetic and architectural standards. In paragraph b(12), the New Jersey Legislature is concerned with the regulatory agency's power to control the casino operations and ancillary industries so as to encourage and preserve competition. Throughout the entire section, there is recurring language that emphasizes the priority of rehabilitation and redevelopment of existing tourist and convention facilities, while concurrently encouraging new construction and the investment of new capital. The absence of similar policy statements in the Massachusetts bills would appear to be a deliberate omission; with respect to control aspects, the bills are loaded with generalities but are devoid of the specifics that feature the New Jersey act.

The policy declaration in each of the Massachusetts bills is followed by a proposed amendment to the General Laws, which would add a new title: "Gambling Casinos" in the form of Chapter 128C. The Hull Proposal's version (SECTION 2 of Senate, No. 518) contains 29 sections (of proposed G.L. c. 128C) as follows:

Section 1. Definitions

Definition
of Terms

Section 1. This section provides definitions of key terms (an asterisk indicates verbatim definition, otherwise it is reduced for brevity).

1. Casino area: The actual rooms within a licensed casino where the games are conducted.
2. Town: *Adams and Hull.
3. Game or Games of Chance: All the games usually available in a casino operation but specifically excluding beano, raffles, lotteries, skilo and racing or athletic contests.
4. Local Licensing Authority: *Board of Selectmen in each town.
5. Premises: The licensed premises, a complex consisting of one or more buildings combining, but not limited to, a 400-room hotel with adequate restaurant, entertainment and recreational facilities, conference rooms accommodating at least 800 persons, and the casino facility.
6. Board: The Gaming Control Board, whose functions, under S. 2 below, shall be performed by the State Lottery Commission.
7. Licensee: *The owner of the hotel/casino complex.
8. State Premises License: *License issued by the Gaming Control Board.
9. Intended Approved Applicant: *The applicant approved by the Local Licensing Authority.
10. Immediate Family: *Stockholders and their spouses, parents, children, brothers, sisters, grandparents and the spouses of the children, brothers and sisters.

(Ed. Note: Hereafter, LLA refers to the Local Licensing Board and GCB to the Gaming Control Board.)

In the definition No. 1 above, "Casino Area," the AFL-CIO Proposal uses the term "Casino," and the General Proposal employs the term "Casino Premises." All of these terms, however, relate to the actual floor space of the casino operation.

In the definition No. 3, "Game" or "Games of Chance," the General Proposal includes the game "bingo" among the usual casino games, which is not included in the Hull or AFL-CIO Proposals. "Bingo" and "Beano" are the same game.

In the definition No. 4, the AFL-CIO Proposal defines the Local Licensing Authority as a licensing board appointed by the selectmen. The General Proposal defines the LLA as the Licensing Board.

In the definition No. 5, the AFL-CIO Proposal would set the minimum number of hotel rooms at 350 and the minimum capacity of conference facilities at 750 persons. The General Proposal's figures are the same as the Hull Proposal.

In the definition No. 6, the General Proposal's definition of "Board" is the same as the Hull Proposal. The term "Board" is not defined in the Definition Section of the AFL-CIO Proposal but in Section 2 of that proposal it is provided that a three-member Gaming Control Board be established under the auspices and jurisdiction of the Massachusetts Lottery Commission.

In the definition No. 7, the term "licensee" is not defined in the AFL-CIO Proposal. The General Proposal's definition differs from the Hull Proposal by restricting the term "licensee" to the "owner and operator of the Casino Premises." The question thus arises as to whether it is contemplated that there be a separation of ownership and control of the casino facility, distinguishable from the hotel facility. If that is the intent of the draftsman and the petitioner, the question arises, what is the rationale for such separation?

In the definitions No. 8 and No. 9, the respective terms, "State Premises License," and "Intended Approved Applicant" do not appear among the definitions in the AFL-CIO Proposal. The General Proposal contains the same definitions as in the Hull Proposal.

The definition No. 10, "Immediate Family," does not appear in either of the other proposals.

Section 2. The Gaming Control Board

Gaming Control Board
(The State Lottery
Commission)

Sole authority to issue
casino license

Authority to employ an
executive secretary

Section 2. Establishes a Gaming Control Board (The Mass. State Lottery Commission) which has "sole authority to issue licenses to operate a casino pre-mise," subject to the prior approval of the intended applicant by the LLA. The Board may employ an executive secretary for gaming matters and other staff outside the civil service law.

Both the Hull Proposal and the General Proposal provide that "The Massachusetts State Lottery Commission, as defined in M.G.L., Chapter 10, section 10 et seq., shall function as the Gaming Control Board. Said Board shall have sole authority to issue licenses to operate a casino premises, conditioned upon prior approval of the Local Licensing Authority."

Both proposals also provide that the Board shall appoint an executive secretary and such other staff, all outside the Civil Service Law, whose qualifications will be established by the Board, and who will be responsible for administrative affairs and the implementation of the act.

The State Lottery Law encompasses Sections 22-36 of G.L. c. 10. The State Lottery Commission is defined in Section 23 of G.L. c. 10 (not in M.G.L. c. 10, s. 10, as erroneously cited by the casino bill draftsmen). The Lottery Commission is a five-member board composed of the State Treasurer, who is Chairman, the Secretary of Public Safety or his designee, the State Comptroller or his designee, and two gubernatorial appointees whose terms are coterminous with that of the Governor. Members of the commission receive no compensation for their services but they are reimbursed for actual and necessary expenses.

While there is no section in any of the casino proposals which detail the powers of the Gaming Control Board, among the powers of the State Lottery Commission set forth in G.L. c. 10, s. 24 are the following:

The commission shall have the power to issue subpoenas to compel the attendance of witnesses and the production of documents, papers, books, records and other evidence before it in any matter over which it has jurisdiction, control or supervision. The commission shall have the power to administer oaths and affirmations to persons whose testimony is required. (Emphasis added)

The casino proposals not only make the State Lottery Commission, functioning as the Gaming Control Board, the "sole authority to issue licenses to operate a Casino Premises" (s. 2) but also empower it (and the LLA) with authority to make all rules and regulations "necessary to carry out, enforce and oversee the licensing and operation of Casino Premises...in accordance with the public interest..." (s. 3).

In the AFL-CIO Proposal, the Gaming Control Board is a separate, three-member board "under the auspices and jurisdiction of the Massachusetts Lottery Commission." There is no mention of an appointing authority but the word "auspices, according to lexicographers, may be used synonymously with "patronage" or "guidance,

Section 3. Regulations

Board sets rules and regulations

Section 3. Authorizes the GCB, in accordance with C. 30A - the Administrative Procedures Act, and the LLA to set rules and regulations to implement the statute.

One licensee in either town

The GCB is restricted to licensing only one casino in either town.

The AFL-CIO Proposal does not contain the limitation of one casino in either town, but in its next section, it is provided that the LLA may authorize only one license. The General Proposal carries the limitation of one casino but qualifies it with the wording: "Until the Legislature shall approve otherwise..." The General Proposal also omits the power of the LLA to set rules and regulations.

Section 4. Application Procedures

Application process	<u>Section 4.</u> Establishes application procedures. The applicant first applies to the LLA which may authorize only one licensed premise. If approved, the applicant has 60 days to apply to the GCB for a State Premise License.
Factors employed by licensing boards	Both the LLA and GCB, in acting upon licenses, must consider several factors, viz., economic impact, public welfare, and the applicant's (a) personal qualifications, (b) criminal record, (c) financial ability to construct and operate the premises, and (d) previous experience.
Minimum age for applicant	The applicant must be at least 18 years old or be a Massachusetts corporation with all directors U.S. citizens.
U.S. citizenship for corporation directors	The individual applicant apparently does <u>not</u> have to be a citizen.
Agent to be identified	The applicant must give the name and address of its agent.
Public hearings and proper notice	If the voters of the town accept the provisions of G.L. c. 128C (see S. 26 below), the LLA must set a deadline for receiving applications and thereafter hold public hearings on all applications before approving any applicant. The LLA must adopt reasonable and timely procedures as to publicizing and holding such hearings.

The General Proposal is virtually the same. Obvious differences are (a) the reference to the applicant's agent "who is to be the resident agent in said Town" and (b) omission of the public welfare and personal qualifications as factors to be considered by the licensing authorities. Section 4 of the AFL-CIO Proposal is worded quite differently. It contains no reference to any of the factors cited above relative to the applicant's personal qualifications and history, to be considered by the GCB and the LLA. There is also no reference to age or citizenship of the applicant. Local voter approval of a gambling casino operation, which is covered in a later section of the Hull and General Proposals, is treated in this section of the AFL-CIO Proposal. As indicated above, it is also this section of the AFL-CIO Proposal that limits the LLA to authorization of only one license.

Section 5. Premises And Zoning Regulations

Section 5. Sets requirements governing physical plant and zoning:

Physical plant
requisites

- a. Minimum 400 rooms in hotel.
- b. Adequate restaurant facilities (including food preparation on-site) in accordance with G.L.
- c. 140 (inn-holders and victualers).
- c. Additional entertainment and indoor recreational areas conforming to Table 1 below.
- d. Conference space on premises conforming to Table 1.
- e. Casino space conforming to Table 1.
- f. Other facilities or space as may be required at the discretion of the licensee to make a complete resort/hotel/conference complex.

Table 1

Min. No. of Guest Rooms	Min.Sq.Ft. Conference Space	Min.Sq.Ft. Restaurant Entertainment	Casino Space Sq. Ft.	
			Min.	Max.
400	15,000	10,000	10,000	40,000
500	20,000	15,000	20,000	50,000
800	25,000	20,000	30,000	60,000

Utility costs

The licensee has responsibility to pay for all costs related to installation of necessary utility services as required by LLA. This includes, but is not limited to, electrical, sewerage, gas, roadway, water and telephone services.

Zoning

The casino complex may operate only in an area specifically zoned for such use. A town meeting may not act on any zoning change to permit casino gambling until the LLA has designated the intended approved applicant.

Both the AFL-CIO and the General Proposals omit all reference to the licensee's responsibility for the costs of utility services and the language on zoning. The table in the General Proposal is the same but the AFL-CIO Proposal contains a table with different hotel room minima, substituting 350 in place of 400

rooms, and 750 for 800 rooms. Figures in the remaining columns are not changed. Two additional horizontal columns are included for hotels with 1,000 rooms and 1,500 rooms respectively, with an additional 5,000 square feet added respectively for each use cited in the table.

Section 6. Application of License

Information required on state forms	<u>Section 6.</u> Sets forth information required on application forms. The GCB prescribes all forms. Applicant must disclose names and addresses of anyone having more than a 5% beneficial interest and their immediate families in the license. GCB must give prior permission for any such licensee to transfer, pledge or issue any stock or interest.
Exemption	But this section does not apply to corporate stockholders whose stock is (a) listed with SEC for sale to public and (b) who hold less than 5% of outstanding stock with voting rights.
Publication of notice of application	Date and hours of filing of the application are to be noted therein. Within 10 days of receipt of application, the GCB must publish notice thereof for three consecutive weeks in a newspaper circulating in the town. The notice must identify the applicant and describe the applicable area.
Hearing on application	The Board must hold a hearing on the application not sooner than 10 days following the third publication.
Affidavit of publication of notice	An affidavit of publication is required with an attested copy of the notice published. A certified copy of the affidavit is prima facie evidence of publication of notice.

The General Proposal is virtually the same although it makes no reference to the requirement that the names of members of the immediate families of stockholders with more than 5% interest be disclosed. The AFL-CIO Proposal also omits reference to names of immediate families and does not contain the 5% beneficial interest qualification. In the exemption language of the AFL-CIO Proposal, the persons who hold less than 10% of outstanding stock with voting rights are excluded.

Section 7. License Fees

- | | |
|---|--|
| \$25,000 nonrefundable registration fee to LLA | (a) Applicant pays LLA certified check for \$25,000 which is a nonrefundable registration fee deposited to a revolving account which the LLA may use to investigate the applicant. |
| \$50,000 casino complex license fee to LLA | (b) Applicant seeking approval of a premises license (for casino complex) pays LLA certified check for \$50,000 "for the original license." (sic) |
| \$25,000 nonrefundable registration fee to State Board | (c) Applicant for state premises license pays GCB \$25,000 nonrefundable registration fee. (There is no mention of certified check.) |
| \$100,000 original fee to State Board | (d) If GCB grants license, applicant pays an additional \$100,000 for original license. The initial fee is applicable to the first year's operation. |
| Annual maximum \$2,000 fee for gaming tables; \$1,000 for slots | (e) Licensee pays annually to GCB maximum \$2,000 fee for each gaming table; maximum \$1,000 fee for each slot machine, plus any applicable federal taxes or license fees for such games. State returns 20% of the fees generated under this section to town's general fund. |
| Additional fees | (f) LLA may also levy fee schedule not to exceed that of State Board. |
| Applicant has two years to begin operation | <u>Section 7a.</u> Applicant must be in business within two years of local approval or forfeit license. LLA may grant extension. |
| Casino opening contingent upon progress of entire complex | <u>Section 7b.</u> Operation of casino is conditioned upon LLA's approval of completion stage of entire complex. |

The General Proposal follows a format similar to the Hull Proposal but with differences in fee schedules. In S. 7(b), the fee for the "original license" paid to the LLA is \$75,000. In S. 7(d), the fee paid to the GCB is \$75,000. In S. 7(e), the following fees are payable each calendar quarter: maximum \$300 for gaming table (\$1,200 annual), \$12.50 for each slot machine (\$50 annual). There is no provision for returning any portion of these fees to the town. Sections 7a and 7b of the Hull Proposal are not included in the General Proposal.

The AFL-CIO Proposal does not include any payment of fees to the LLA. It requires a \$25,000 nonrefundable registration fee payable to the GCB. If the license is granted, it requires the applicant to pay \$100,000 to the GCB for the original license and \$100,000 per year for annual renewal. There is an annual maximum fee of \$1,200 for each gaming table, and an annual maximum fee of \$50 for each slot machine.

There is some confusion in the construction of this section which may be due to the draftsman's failure to use the precise terminology defined in S. 2. Under S. 2 of the proposal, only the GCB may issue a license to operate a casino premises. Thus, we assume that in S. 7(b) above, the payment of \$50,000 to the LLA "for the original license" is intended to be a payment for the LLA's approval of the intended applicant, such approval being a precondition to filing a license application. We also assume that the same term, "original license," as used in S. 7(d), is the "State Premises License" defined in S. 2. We further presume that in S. 7(e) the fees to be paid by "each such licensed premises" mean each state premises licensee and not the "Licensee" of the "Premises," as those terms are defined in S. 2, being the entire hotel/casino complex.

Section 8. Annual Renewal

Annual renewal of
licenses

Section 8. All licenses must be renewed annually.

- a. Licensee pays LLA \$50,000 for renewal plus all fees and taxes due.
- b. Licensee pays GCB \$100,000 for renewal plus all fees and taxes due.

Renewals are to be granted unless state or local board determines licensee to be unsuitable to continue, based on repeated violations of this act.

The General Proposal differs only with respect to the amounts of the renewal fees: \$75,000 each to the LLA and GCB. The AFL-CIO Proposal states that all licenses issued are renewable each year by application to the GCB. Renewals are mandatory except in the case where a licensee is determined by the GCB to be unsuitable to continue.

Section 9 and 9a. Transfer or Leasing of License

Transfer of
premises
license

Section 9. Governs transfer of premises license. LLA must give prior approval of transfer. The proposed transferee must follow procedure required of a new applicant.

Lease of
premises
license

Section 9a. Governs lease of premises license. Any lease or agreement between licensee and another party requires prior approval of both local and state boards. Proposed lessee or manager must follow procedure required of a new applicant.

The General Proposal contains the same requirements. There are no similar provisions in the AFL-CIO Proposal. Section 9 of the AFL-CIO Proposal is concerned with notice to owners of property abutting casino premises, which will be discussed below.

Section 10. Application Forms

Information
required on
application

Section 10. Application to GCB must be accompanied by a record of local approval plus any other documentation the Board may require. Application must include the following information: Name of applicant, postal address, location of business and names and addresses of its directors and stockholders (and immediate families) owning more than 5%, exact location and floor space where games will operate (which must be in casino area), days and hours of operation, and responses to such other questions that the state or local board may prescribe.

Penalties for
falsification

All information submitted under penalties of perjury, subject to fine (minimum - \$10,000, maximum - \$100,000 payable by applicant, and/or imprisonment (minimum - 1 year, maximum - 2-1/2 years, House of Correction) or both.

The General Proposal differs only in that it omits the penalty provisions. The AFL-CIO Proposal differs in the amount of the penalty fines: minimum - \$1,000, maximum \$10,000.

Section 11. Issuance and Filing of License

License requires majority
vote of State Board

Majority vote of GCB required for issue of license.

Filed with Town Clerk -
Copy on premises

License is filed with Town Clerk giving exact location and floor space and days and hours of operation. Certified copy of license to be displayed on premises.

Both the AFL-CIO Proposal and the General Proposals have the same requirements.

Section 12. Conduct of Operations and Entertainment

State sets rules and regulations	<u>Section 12.</u> Governs conduct of operations and entertainment. The GCB is empowered to set rules and regulations governing conduct of games including accounting and reporting requirements. It is required to review all licensed operations and notify licensee of any violations.
Hearings on violations	It must hold a public hearing on any violation (after 10-day notice) and may recall any license thereafter for any violation.
Local authority to set rules and regulations	The LLA is empowered to set rules and regulations for operation and conduct of the premises including a schedule of fines provided they do not conflict with nor be less restrictive than the state's rules and regulations or other applicable state or local laws.
Alternative to suspension of license	If the LLA agrees, a licensee may pay an additional fine set by the LLA as an alternative to suspension of its license.
Local power to suspend or revoke license	The LLA, after hearing (10-day notice), may suspend or revoke the license and/or issue orders, warnings or other sanctions including fines, for violation of any law, rule or regulation relative to the casino operation.
No impingement upon acts of other officials	This act does not limit the authority of other agencies or officials having responsibility to regulate activities upon the premises.
When license is to be surrendered. Penalty.	Any license suspended, revoked or forfeited is to be surrendered to the LLA. Penalty for noncompliance is daily fine up to \$10,000 for each day of violation, and suspension or revocation of the license.
Inspection and investigation of licensee	The LLA or its agents are authorized to inspect and investigate the licensee's activities concurrent with other officials having such authority under this or any other law.
Penalty for impeding authorized entry upon premises	Any interference with or impediment against the authorized entry of inspection or investigative authorities empowered under this act is punishable by a maximum fine of \$10,000 and/or suspension or revocation of the license.
Officials authorized to enter	The LLA, GCB, their agents and "any other police or investigative officer or agent" are granted access to the licensed premises to inspect or investigate the licensee.
	Licensee must comply with all local by-laws, rules and regulations.

Both the AFL-CIO Proposal and the General Proposal include virtually the same language that appears in the first paragraph of this section dealing with the Board but each add a right of appeal to the Superior Court on any Board decision. An order of the Board recalling or suspending a license is automatically stayed pending a decision by the Court on the appeal.

Neither the AFL-CIO Proposal nor the General Proposal contains any of the language in the Hull Proposal relative to LLA powers.

In the Hull Proposal, the assignment to the LLA (i.e., the Board of Selectmen) of such broad and ultimate powers, makes the local body the controlling licensing authority. Even though the Gaming Control/^{Board} is the sole authority to issue a casino license, the State Board cannot act on a license application until it has first been approved by the LLA. With this language in S. 12, the local power is complete, - the LLA can take away the license. Further, the LLA explicitly enjoys all the powers that the Board, by implicit language, would be expected to wield. It may be argued that the inclusion of those local control sections is a tactical ploy - to convince doubtful legislators that the local authorities intend to run a very tight surveillance when, in fact, the local body is the least likely control authority to kill the goose that is expected to lay so many golden eggs. One further observation is that if casino opponents were ever to capture a majority on the Board of Selectmen, the stage would be set for a period of adversarial relationship between the licensee and the local authorities. In any event, the obvious effect of this section is to create a two-headed control system.

Section 13. Distributors License

License to distribute games

Section 13. Requires any person or firm which sells, leases, or otherwise distributes games of chance to apply annually for a license as distributor upon forms prescribed by the GCB, giving such information as may be required. The annual license fee is \$10,000. Games may be distributed only to a licensed casino.

The AFL-CIO Proposal is the same. The General Proposal differs by setting the annual license fee at \$100.

Section 14. Revenue Records

Records and books
of wagers

Section 14. The licensee must keep accurate records and books at all times, showing the nature and amount of all wagers connected with the casino operations.

It would be impossible to record all wagers in a casino operation. The AFL-CIO Proposal is the same (although it includes S. 15 below as part of its S. 14; differences in that section will be discussed below). The General Proposal differs by wisely substituting the word "revenues" for "wagers."

Section 15. Tax Payments

Quarterly payments
7% of gross income
to state

Section 15. The licensee must make quarterly payments to the State Treasurer, a sum equal to 7% of the licensee's total gross income during the quarter. Gross income is the total of all sums, including checks and markers received from gaming operations, less the total paid out in winnings.

60% returned to
site town

40% to local aid
fund

40% of such income goes into the state's local aid fund, 60% into a casino fund. The 60% deposit is returned to the treasury of the town each quarter for deposit in its general fund.

.5% of gross income
to state

Reserved for impact
costs to other
towns

The licensee must also make quarterly payments to the State Treasurer, a sum equal to 1/2 of 1% (.5%) of the total gross income for the quarter to be deposited in a municipal impact fund supervised by the GCB. The Board may use such funds to aid cities or towns (other than the site town) which prove added costs caused by the casino complex.

The AFL-CIO Proposal, as noted above, includes these provisions in its Section 14. It defines gross income the same way as the Hull Proposal and 7% of such income is payable each quarter to the State. Of that sum, the State Treasurer must deposit 20% in the state's General Fund and 30% into a new Casino Fund, all of which is allocated to the state's Department of Elder Affairs. The General Proposal has a different definition of monies payable to the state: The "total gross amount of win" which is the total of all sums, including checks and markers after they are collected by the licensee, less only the total paid out in winnings. Seven per cent of the gross amount of win is payable quarterly to the State Treasurer who must deposit 50% of such sum to the state's Local Aid Fund, and forward 45% to the Town

Treasurer for its General Fund. The remaining 5% must be deposited in a Municipal Impact Fund under the control of the GCB for the same purposes noted in the Hull Proposal.

Section 16. Exclusion or Ejection of Certain Patrons

Casino may bar
entry of certain
persons

Section 16. A casino may refuse admission to, or eject a patron whose presence the licensee judges to be detrimental to the proper and orderly conduct of its operations. A person on notice not to enter premises who does so, or tries to enter, is subject to a fine (maximum \$1,000) or imprisonment (maximum - 6 months) or both.

Both the General Proposal and the AFL-CIO Proposal, (the latter in its S. 15), contain the same provisions.

Section 17. Exemption From Federal Statute

State exempt from
federal law re
gambling devices

Section 17. This is a declaration of the state exemption from the federal statute prohibiting transportation of gambling devices.

Both of the other proposals contain this language.

Section 18. Legal Shipments of Gambling Devices

Legal shipments
of gambling
devices

Section 18. This section makes lawful the shipment of certain gambling devices into the state that are properly registered under federal law.

Both of the other proposals contain this language.

Section 19. Minimum Age

Minimum age - 20

Section 19. The minimum age for involvement in a casino operation either as a spectator, participant or employee, is 20. Violations carry a fine (\$100 - \$1,000) or imprisonment (2 mos. - 6 mos.) or both, upon conviction. (Interestingly, Section 4 allows an application for a casino license to be filed by a person 18 years of age.)

Both of the other Proposals set the minimum age for involvement at 18.

Section 20. Penalty for Allowing Gambling by Minors

Penalty for allowing
minor to gamble

Section 20. A licensee who knowingly permits a person excluded by S. 19 above to participate in any casino operation defined in S. 1 is subject to a fine (minimum \$5,000 - maximum \$20,000) or 2 months imprisonment or both.

The General Proposal differs in substituting the word "minor" where applied to participation in games or employment in casino premises. The minimum fine levied against a licensee is \$5,000 but there is no maximum. The optional penalty of two months imprisonment, or both, is included. The AFL-CIO Proposal is similar to the General Proposal but the penalties are much less: minimum - \$50, maximum, - \$200, or two weeks imprisonment, or both.

Section 21. Casino Hours of Operation

Casino hours-
10 A.M.-4A.M.,
7 days

Section 21. Casino hours of operation are 10 A.M. to 4 A.M., Monday through Sunday. LLA may, after two public hearings, allow extra hours but not more than 20 hours in a 24-hour period.

The General Proposal would permit casinos to operate between 10 A.M. and 6 A.M. on weekends (Friday, Saturday and Sunday). We understand this to mean that the casino would be open until 6:00 A.M. on Saturday, Sunday and Monday.

The AFL-CIO Proposal forbids casino operations between 4:00 A.M. and 10:00 A.M. Sunday through Thursday, and between 6:00 A.M. and 10:00 A.M. on Fridays and Saturdays.

Section 22. Safety Protection

Public safety-
licensee is
responsible

Special police
powers

Local police have
primary juris-
diction re crimes

Section 22. The licensee is responsible for providing personnel, equipment and forces to protect the public as directed by the GCB and the LLA. The Department of Public Safety is authorized to grant special police status to such personnel on the premises. State police have concurrent jurisdiction. The licensee is liable for all acts, errors and omissions of its employees. Local police, when necessary, have primary jurisdiction for criminal acts in and on the premises of the complex. Licensee must hire police and fire details when needed or if directed by the LLA.

The General Proposal has virtually the same language but it omits the final requirement relating to hiring police and fire details when needed or directed. The AFL-CIO Proposal has a much shorter section on public safety. It makes the licensee responsible for "all necessary security forces to protect the public interest and safety," gives such security forces "special police powers concurrent

with the local police" and provides them with "powers of arrest for probable cause in and around the licensed casino premises."

Section 23. General Penalties

Penalty for violation of act	<u>Section 23.</u> Notwithstanding Sections 5 and 10 of this act, violations of <u>any provision of this chapter</u> by a person, with or without a license, carries a fine (minimum - \$10,000, maximum - \$50,000) or imprisonment (minimum - 1 year, maximum - 3 years, or both.
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The intent of this section is muddled at best. To begin with, the Section 5 referred to in this section is concerned mostly with minimum facilities and floor space of the hotel/casino complex but also covers utility services and zoning. There are no penalty provisions stated in Section 5. Section 10, also referred to above, requires certain information to appear on a license application and it includes penalties for perjurious statements: A fine (minimum - \$10,000, maximum - \$50,000) or imprisonment (minimum - 1 year, maximum - 3 years), or both.

We read this section to take precedence over Section 10's penalty clause, and any and all other penalty clauses in the proposed Chapter 128C. We also read it to apply to violation of any provision of proposed Chapter 128C, regardless of whether the violation of a particular provision calls for application of a penalty. We also note that the higher maximum of imprisonment (3 years) puts a convicted violator into a situation where he or she could be sentenced as a felon. The other effect which this section may have (by virtue of its reference to conducting casino games without a license) is to bring participants in so-called Las Vegas games within the ambit of its penalty application.

The General Proposal has similar language and the same fines but the language on imprisonment calls for imprisonment of three years but no minimum. Its text, however, makes reference to Sections 10, 12 and 20. Section 10 has been noted above. Section 12 is concerned with the Board's rules and regulations for operation and conduct of the casino games, but also includes accounting and reporting requirements. There are no penalty clauses in Section 12 but presumably,

rules and regulations carrying penalty clauses would be nullified by this section. Section 20 penalizes a licensee who knowingly permits a minor to participate in casino games: a minimum fine of \$5,000 or two months imprisonment, or both. We read this section to have the same effects in the Hull Proposal except as to imprisonment penalties:

The AFL-CIO Proposal, in its Section 22, has similar language but the penalties are a minimum fine of \$1,000, a maximum fine of \$25,000, or imprisonment for one to three years, or both. (The bill reads "not more than three years nor more than one year" which we assume is a typographical error). It contains reference to Sections 5 and 9, neither of which contain penalty provisions. We read the AFL-CIO Proposal effect to reduce previously stated higher fines, increase previously stated lower imprisonment periods, and apply penalties to violation of any provision of proposed C. 128C.

Section 24. Conflict of Laws

Conflict
of laws

Section 24. Any law or part thereof that is inconsistent with provisions of this chapter is amended to the extent of applicable provisions of such law.

Both of the other Proposals contain the same language. One effect of this section may be to force a close examination of the laws permitting certain organizations to conduct so-called Las Vegas nights.

Section 25. Constitutionality

Saving clause

Section 25. Any section or part thereof of this chapter that is declared invalid shall not affect the validity of the remainder of this chapter.

Both of the other proposals contain this language.

Section 26. Local Referendum Required

Referendum
within
60 days

Section 26. Upon passage of this act, the town clerk must call for a special referendum within 60 days (unless the annual town election or the "bi-annual" (sic) state, (should be biennial) - election is scheduled at which the voters are to accept or reject (a) the provisions of Chapter 128C and (b) the granting of one casino license for a maximum 10-year period.

The General Proposal is similar but adds to the referendum question a provision designating the site location of the proposed casino.

There is no similar section in the AFL-CIO Proposal. However, in S. 9 of the AFL-CIO Proposal, owners of property abutting the proposed site of the casino, whether it be the site of the original licensee, the site proposed under a transfer of a license, or a change in the description of the licensed premises, must be notified by registered mail of such application. Notice must also be given where a church, school or hospital lies within a radius of 500 feet of the proposed casino premises. An abutter, or the authorities governing a school, church or hospital, not so notified may complain in writing to the LLA and if after due hearing it appears no such notice was mailed the GCB may take appropriate action, but the section does not include any provision for remedial action by a party objecting to the proposed site.

Section 27. Additional Premises Licenses

Additional
licenses

Section 27. No additional licenses authorized by the Legislature shall be mandatory upon the towns without local approval granted at the annual election.

Neither of the other Proposals contain this provision. We note that the proposed C. 128C already requires the LLA to give initial approval to any license (S. 4 of the Hull Proposal) and that it may authorize only one licensed premises within the town. The Legislature would have to amend the enabling legislation both to permit additional licenses and to circumvent the local electorate should the will of the majority prove to be against additional licenses.

Section 28. Political Campaign Contributions

Local campaign
contributions
barred

Section 28. Prohibits campaign contributions for any local office or ballot question, whether monetary or in-kind, from any licensee, employee or spouse, or stockholder with more than 10% interest. Violation by employee or spouse shall result in termination of employment of employee. Violation by licensee is ground for suspension or revocation of license.

Neither of the other proposals contain this provision. However, the provisions of this section may be in conflict with a recent U.S. Supreme Court decision on the validity of Mass. G.L. c. 55, s. 3. Chapter 55 regulates political campaign financing. Section 8 thereof prohibits a business corporation from making contributions or expenditures for the purpose of influencing the vote on any question submitted to the voters, other than questions materially affecting the property, business or assets of the corporation. In 1978, in First National Bank v. Bellotti, 435 U.S. 765, the United States Supreme Court declared ^{the} restriction on corporations in S. 8 of the Massachusetts statute unconstitutional because the statutory restriction on corporations constituted "an impermissible legislative prohibition of free¹ speech."

Section 29. Conflict of Interest

Conflict of
interest

Section 29. Applies G.L. c. 236A (Conduct of Public Officials and Employees) to this chapter. It further bars employment by licensee, for a period of five years after leaving office, of persons holding the following positions: Board of Selectmen Members; Planning Board Members; Building Commissioner; Board of Health Members; Health Director/Agent; Board of Health Inspectors; Police and Fire Chiefs; Board of Assessors Members; Assistant Assessors; Town Counsel; Wiring, Plumbing and Gas Inspectors; Board of Appeal Members; Permanent Sewer Commission or Sewer Commission Members. Such persons are also barred from doing business with or having any interest in the licensee.

GCB is directed to consult with State Ethics Commission and promulgates rules and regulations governing employment of all other town officers and employees and immediate families and business associates, who hold policy or regulatory positions.

Neither of the other proposals contain this provision.

¹ 435 U.S. 765, at 784.

SECTION 3. REFERENDA; GEOGRAPHIC RESTRICTION; MORATORIUM
RELATED TO OTHER PROSPECTIVE SITES

SECTION 3 of the Hull Proposal has three unique features not included in the other proposals.

Referendum on proposed added towns	<u>Section 3.</u> Requires referendum vote of approval by any additional community seeking inclusion under Casino Gambling Chapter, before the Legislature may amend this act for such purpose.
No other casino within 50-mile radius	Bars any other casino operations within radius of 50 miles of a licensed casino.
No new petitions for 5 years	Bars petition to Legislature by another community seeking casino license for a period of five years following beginning of casino operations in Hull <u>and</u> Adams.

With respect to the 50-mile radial limit, if we measure distance as the crow flies, no casino could be established in competition with Hull in eastern Massachusetts or in competition with Adams in western Massachusetts. There would be a narrow North-South band for proposed sites within Worcester County that would not conflict with the Hull or Adams sites, and the eastern part of Cape Cod below Wellfleet, and perhaps the extreme southwest coast of the Cape would be beyond the radial extremity.

With respect to the five-year time limit on petitions for another site, casinos would have to be operating in both towns before a petition could be entertained.

Such restrictions may raise federal questions under the commerce clause.

Views of the State Lottery Commission

Of the six bills that propose the legalization of casino gambling in Massachusetts, five designate the State Lottery Commission as the Gaming Control Board and the sixth provides for a gaming control board under the auspices and jurisdiction of the Lottery Commission. The Legislative Research Bureau solicited the views of the State Lottery Commission with respect to the powers and duties of the

proposed Gaming Control Board and asked for general comment on the substantive content of the bills.¹ The Commission responded through its Executive Director, Dr. William E. Perrault. The following excerpts from his correspondence with the Research Bureau indicate (1) that the petitioners did not obtain the views of the Commission with reference to assigning the Commission the role of regulating the casinos; and (2) that the contents of the bills are seriously deficient in many respects but most important are fatally flawed in their failure to establish an adequate licensing, regulations and control scheme.

As to the position of the State Lottery Commission on casino gambling proposals, Dr. Perrault states:

The State Lottery Commission has taken no position on proposals to permit the operation of Casino Gambling within the Commonwealth.

As a State Agency the Commission operates upon a legislative mandate and must confine itself to the powers and duties specified in its mandate. No where in its enabling legislation is the Lottery Commission empowered to make recommendations relative to the legalization of Casino gambling which is of course a question of public policy and for determination by the General Court.

None of the sponsors of individual legislation have approached the Commission for its views and the inclusion of the Commission in the operation of these bills is entirely gratuitous. Your inquiry is the first we have received relative to this matter.²

In response to the Bureau's request for comments on the casino bills, the Executive Director had the following observations:

While it is flattering that the proponents of these bills seem to feel the Lottery Commission is capable of developing an effective licensing and regulatory procedure administratively without a proper statutory framework to build upon this is not entirely a realistic expectation.

The State Lottery Commission is a five member board. Three of its members serve ex-officio and hold full time demanding positions in State service in addition to their Commission duties. The two remaining serve without compensation.

¹ The bills were filed in the 1982 session but their text is identical to those currently before the Legislature.

² Letter of June 11, 1982 to Daniel M. O'Sullivan, Director, Legislative Research Bureau.

To expect the Commission to assume the duties performed in New Jersey by a full time, well paid Commission of five members is not realistic. It would appear that the creation of a full time licensing authority serving under the Commission would be required in order to provide the time and attention demanded by the licensing procedure. The Commission would then delegate the licensing function and remain available as an appellate body.

None of these bills establish a Gaming Control Division with effective police powers separate and distinct from the licensing function. In my opinion such a separate Gaming Control Division should be established and given adequate police powers. While this Division could function under the supervision of the Lottery Commission it should be separate and distinct from the licensing function. Thus, while there may be common supervision there would be separate and distinct communities of interest and a healthy separation of powers.

None of these bills provide for adequate licensing and control of Casino employees and suppliers and this lack should be addressed.

While threshold local approval is certainly required it may not be wise to have continuing local control. In my opinion once a community has decided to allow a Casino within its borders regulation and control should be conducted at the State level. The Community's interest could be protected by a referendum for repeal at stated periods.

The bills variously allow games at Keno, Bingo and Stud Poker. I point out to you that none of the above are permitted in New Jersey.

Provision should be made for temporary licensing. Any requirement for permanent licensing in a relatively short period of time is not realistic.

The burden of proof for fitness for a Casino license should be clearly on the applicant and statutory disabilities should be clearly enunciated.

Imposition of Internal Controls, if not included in the Statute, should be clearly included in the Commissions regulatory powers.

Credit and complementary services should be regulated and the terms and conditions of any credit or services extended clearly enunciated.

In my opinion none of these bills are sufficiently detailed and all fail to establish an adequate scheme for effective licensing, regulation, and control. (Emphasis added) I believe the New Jersey Casino Control Act provides an excellent starting place. While it may seem that its provisions are too elaborate for legislation

contemplating establishment of Casinos in two communities it should be remembered that whether there are two or twenty an effective regulatory scheme is equally essential.¹

The Executive Director also included comments on how the control agency could be structured so as to ensure its proper functioning. Such a scheme, the Executive Director states, "should be spelled out in the enabling legislation and the specific powers required by each unit be granted legislatively, e.g., quasi-judicial powers for the licensing unit and police powers for the regulatory unit."²

Views of the United States Attorney, District of Massachusetts

In September 1982, the Legislative Research Bureau requested the United States Attorney to comment on proposals to legalize casino gambling in Massachusetts. In particular, the Bureau sought assistance in the form of "any information that will contribute to an informed deliberation of pending legislation to legalize casino gambling," noting that the Bureau would address the issue of organized crime in relation to casinos.³

The United States Attorney replied with a statement on casino gambling prepared by Deputy United States Attorney Mark L. Wolf. That six-page document,⁴ dated June 14, 1982, draws heavily on the Abrams Report. Wolf cites some of the statistical evidence of increases in street crime in Nevada and in Atlantic City, public corruption as revealed by the Abscam operation, the involvement of local officials in Atlantic City and Atlantic County in land speculation and profiteering, efforts to dilute the regulatory controls, and the hiring of many former public officials by the casinos. Among observations of interest are the following:

¹ Ibid.

² Ibid.

³ Correspondence from Daniel M. O'Sullivan, Bureau Director to U.S. Attorney William F. Weld, September 22, 1982.

⁴ Abrams Report, 1981, supra.

Unions involved in casino gambling construction, operation and supply...are prime targets for infiltration by organized crime (p. 3).

Casino management can easily skim money to evade taxes or pay off secret owners through kickbacks, fake bills, false losses, and manipulation of financial records (p. 3).

The high stakes involved in casino gambling also breed public corruption. *** (C)asino gambling also abets... 'honest graft' - that is, the opportunity for public officials to use their offices and inside information to make money in otherwise legitimate activities (pp. 3-4).

The United States Attorney, in his accompanying letter, states that "we believe that the experiences of Las Vegas and Atlantic City demonstrate that dramatic increases in violent crime, organized crime, and public corruption are the natural corollaries of legalized casino gambling. We would expect similar effects if casino gambling is legalized in Massachusetts."¹

Views of the Attorney General of the Commonwealth

The Attorney General of the Commonwealth, Francis X. Bellotti, has long been on record as being opposed to the legalization of casino gambling in Massachusetts. In his response to the Legislative Research Bureau's 1982 request for his comments in pending proposals to legalize casino operations in the Commonwealth, the Attorney General reiterates that opposition giving several reasons for his stand:

The sole argument I have heard raised by the proponents of this measure is that Massachusetts and its citizens will receive some economic benefit from the operation of casinos. While vast amounts of money may be involved in casino operation, it is not clear that this means new revenue and economic benefit for the state. It has never been shown that the vast amounts of money generated by casinos have ever brought any economic benefit to anyone other than those directly involved in the operation. Certainly there will be some new jobs associated with the industry and some increased taxation, but I believe these benefits are purely illusory. Based on the information provided me by Attorneys General in states with casino gambling, I believe it is more likely than not that casinos in Massachusetts would be patronized predominantly by Massachusetts citizens. Instead of

¹ Correspondence from William F. Weld, United States Attorney, to Daniel M. O'Sullivan, Director, Legislative Research Bureau, September 24, 1982.

raising money from new and outside sources, money collected from casino operations would be the result of wagers made by Massachusetts citizens. Revenues produced by taxes on those wagers would therefore be akin to a regressive tax on our own citizens.

The evidence gleaned from the experiences of Atlantic City and Nevada, strongly establishes a host of problems associated with legalizing casino gambling. It has been repeatedly demonstrated in other jurisdictions that the introduction of casinos to an area guarantees a tremendous increase in the crime rate in that area. The potential infiltration of such enterprises by organized crime, and the obvious problems associated with such a liaison must also be anticipated. The potential for pressure and resulting corruption of law enforcement officials has always been a great problem associated with legalized casinos, as has increased street crime such as prostitution, armed robbery and petty thievery. If the state were to deal with just these readily identifiable law enforcement problems, it might require the expenditure of public monies so substantial that the expenditure might outweigh the illusory financial benefits identified by the proponents of legalized gambling. Even then the effectiveness of such law enforcement efforts, as seen elsewhere, will be dubious at best.

I believe that any theoretical benefits derived from the legalization of casino gambling in Massachusetts are clearly outweighed by the hardships, both economic and otherwise, that will necessarily be placed not only on state and local governments, but also the citizens we all strive to serve.¹

¹ Letter of Attorney General Francis X. Bellotti to Daniel M. O'Sullivan, Director, Legislative Research Bureau, November 9, 1932.

CHAPTER VIII. CAMPAIGNS TO LEGALIZE CASINO GAMBLING: STRATEGY AND TACTICS

Image: The Crucial Factor

In a recent analysis of the relationship of casinos to organized crime, the author argues that reliance upon the stigma of the organized criminal can become the crucial factor in a campaign to resist the legalization of casino gambling.¹ By attributing organized criminal symbols to a legislative proposal that ties casino gambling to economic development, the economic arguments, however meritorious they might be, can become submerged in the debate over the consequences of legalizing a business with illegal associations to organized criminals. That, argues Dombrink, is precisely why the marginal legality of the organized criminal entrepreneur is tied to the issue of image, and why the political and social integration of the organized criminal entrepreneur is central to the struggle for normalization.²

Respectibility, like any other subjective label, is a social concept. Yet, while some developments may operate to advance the respectability of a given activity, it is still the political and economic elites who hold the power to either bestow their blessing or to interpose their demurrer.

With this premise, Dombrink undertook a detailed examination³ of how powerful economic and political interests in New Jersey and Florida reacted to the respectability issue when legalized casino gambling was proposed in those jurisdictions. In New Jersey, the ruling elites concurred with the industry's claim of respectability; in Florida, those elites mobilized to resist it.

¹ John D. Dombrink, Outlaw Businessmen: Organized Crime and the Legalization of Casino Gambling, Doctoral Dissertation, University of California Graduate Division, Berkeley, 1981.

² Ibid., p. 147.

³ See Dombrink, supra, Chapters 5 and 6, pp. 152-253. The Legislative Research Bureau has drawn much of this discussion from Dombrink's exhaustive research on the New Jersey and Florida casino campaigns.

New Jersey: The New Gambling Mecca

1

The Impetus to Legalize Casino Gambling

The effort to legalize casino gambling in Atlantic City began as early as 1970 when Frank "Hap" Farley, the most powerful political figure in Atlantic City and Atlantic County, quietly endorsed a referendum proposal. Farley, a state senator, was more than a legislator. For much of his public life Farley had been Chairman of the Atlantic County Republican Party and he had served as county treasurer. In the lexicon of Jersey politics, Farley was Boss of Atlantic County but his influence extended beyond the coastal scene.² By 1970, though, Farley had come under increasing attack by county Democrats who had accused him of election irregularities and association with mob figures. Thus, Farley's attempt to steer enabling legislation through the State Senate that would provide for a statewide referendum on casino gambling was entrusted to a political associate, Senator Frank McDermott, who introduced the measure. Farley, veiling his role, took a public position of disinterest in the bill. This tactic failed as the State Senate was not pressured to see any merits in the proposal. In the following year, Farley was defeated for reelection by Joseph McGahn, a brother of Patrick McGahn, the Atlantic City attorney who had represented the National Association for the Advancement of Colored People before the State Election Commission in the election fraud matter cited above.

In 1972, interest in legalizing casinos in Atlantic City was revived when Governor William Cahill, seeking new revenue sources, proposed an income tax. Being an election year, legislators were unreceptive to any proposal that would reduce

¹ This discussion is based primarily on a paper delivered by Richard Perniciaro, Economics Instructor at Stockton State College, Pomona, N.J., May 3, 1982, at a Conference on Atlantic City and Tourism and Social Change.

² Among projects credited in whole, or in part, to Farley's power are the Atlantic City Expressway, the Garden State Parkway, and an addition to Convention Hall. Although a Republican, he is also given credit for bringing the 1964 Democratic National Convention to Atlantic City, a dubious honor since the Convention was locked up by Lyndon Johnson and the press turned its attention to the deteriorating resort city itself, resulting in much adverse impact on the tourist industry.

voters' paychecks. Proponents of casino gambling, sensing a new opportunity, began offering revenue projections from casino legalization. A study commission was established, chaired by Senator Wayne Dumont, an opponent of the income tax. The commission filed its report in early 1973 and recommended therein that there be a referendum on casino gambling. Among gambling proposals introduced in the 1973 session of the New Jersey Assembly were measures calling for repeal of the constitutional ban on gaming and enactment of legislation providing for state controlled casinos. These measures, however, met opposition from the Governor and law enforcement authorities and the bills did not get out of committee. In the fall of 1973, however, Governor Cahill's Democratic opponent, Brendan Byrne, came out in favor of casinos in Atlantic City provided that the state would operate the casinos and subject to a referendum approval. Byrne defeated Cahill in the election but in early 1974, the Legislature opted for a referendum proposal to legalize casinos anywhere in the state, subject to local approval.

With the referendum set for the fall of 1974, opponents of casino gambling chose to concentrate their resources on the issue of organized crime's potential to infiltrate casino operations. Jonathan Goldstein, the United States Attorney for New Jersey, who had built a formidable record of recent convictions of corrupt Atlantic City officials, became a key figure. Goldstein saw casinos as a fount that would only whet organized crime's thirst and create new burdens for law enforcement personnel. With Goldstein's help, opponents were able to hammer away at proponents' claims that legalized gambling would eliminate unenforceable restrictions on gambling and that legalized casinos would draw money to the state coffers that would otherwise go to organized crime. At a time when the nation was just emerging from the long nightmare of Watergate scandals (Nixon's resignation had occurred that previous summer), the temper of the electorate in the fall of 1974 was not receptive to any proposal that suggested opportunities for more corruption. This mood,

coupled with fears on the part of many New Jersey voters that legalization would mean casinos could locate in their community, was enough to block approval and the referendum measure was rejected by a 3-2 margin.

The Selling of Respectability

The success of the 1976 casino gambling referendum in New Jersey may have been surprising to some political observers, given the resounding defeat of a legalization proposal only two years earlier. As noted above, in 1974, New Jersey voters had rejected a referendum permitting casinos in the state, by a vote of 1.2 million to 800,000.¹ Although it was indicated in the 1974 campaign that casinos would probably be confined to resort areas, the initiative language did not include specific locations. Casino proponents later conceded that a large number of voters may have rejected the measure because they feared casinos might be located in their communities.² Political observers also felt that the possible proliferation of casinos in the urban areas of New Jersey, where gambling could prey upon the working class with its limited income, was a factor in the defeat of the proposal.³ Casino proponents in arguing for approval of the referendum in 1976 thus emphasized that casinos would be legal only in Atlantic City, a resort substantially removed from industrialized metropolitan areas.

A second important distinction between the two referenda was the provision for ownership and operation of the casinos. The 1974 measure called for state ownership and operation of the casinos, a provision which may have lost potential supporters of privately-owned casinos. The 1976 measure favored private ownership.

¹ New Jersey Election Commission.

² Kathleen M. Joyce, "Public Opinion and the Politics of Gambling," Journal of Social Issues, Vol. 35, No. 3, 1979, pp. 144-165, at p. 155.

³ The Commission on the Review of the National Policy Toward Gambling, in its 1976 report, recommended that any legalization of casino gambling be restricted by a state to relatively isolated areas where the impact on surrounding populations can be minimized. Gambling in America, p. 102. In fact, Hudson County, which includes densely populated Jersey City, approved the referendum by 52.5%. Joyce, supra, note 2.

A third consideration was the strategical and tactical use of funds to promote the measure. That the casino gambling proposal was basically unattractive to the majority of voters in 1974 is perhaps best illustrated by the dramatically unequal amounts of money spent by the adversaries in the campaign. Anti-casino forces spent only \$30,000 to defeat the proposal in contrast to the proponents' investment of a half million dollars in a losing cause.¹ This enormous disparity called for a new strategy if voters were to be convinced of the merits of the proposal in 1976.

The success of the 1976 initiative has been attributed by Dombrink to (1) the powerful political and economic base of the casino advocates and (2) to their success in improving the enabling legislation: (a) limiting casinos to Atlantic City with emphasis on revitalizing its tourist economy, (b) providing for private ownership and (c) funneling gaming taxes into a special fund earmarked for tax relief programs for the elderly and disabled - a clear appeal to a powerful bloc of voters.² But the emergence, in 1976, of a powerful alliance between Atlantic City real estate and development interests, Atlantic City legislators, the Governor, and a major casino corporation (notwithstanding its reputed ties to organized crime and a record of influence buying in the Bahamas) was unquestionably the more significant difference that spelled success. With the new-look legislation and the strong political alliance that was forged, "inside" political observers were not surprised at the reversal of New Jersey voters' attitudes on the casino issue.

¹ New Jersey Election Commission.

² The enabling legislation was a compromise between the Senate and the Assembly. The Assembly bill, sponsored by Assemblymen Perskie and Kupperman, called for state ownership and operation of the casinos. The Senate bill, sponsored by Senator McGahn, called for revenues to go into the state's general fund. The final version featured McGahn's proposal for private ownership and the Perskie-Kupperman proposal for earmarking funds for the elderly and disabled.

However, there were other factors that surfaced between 1974 and 1976 which contributed to the endorsement by voters. The 1974 recession, the adoption of a state income tax in 1975 and the near fiscal collapse of New York City were on the minds of tax weary citizens. There was the wholehearted support of the Governor, who predicted that casino gambling's expansion to the east coast was inevitable and urged the electorate to beat other states, such as New York and Florida, to the prize. Governor Byrne argued that large revenues, taxes, investment capital^{and} convention spending were all waiting for the first eastern state that legalized casinos. New Jersey Assemblyman Stephen Perskie, a sponsor of a resolution favoring casino gambling, said -

"This is a unique proposal. It proposes nothing less than the salvation of one of the major cities of New Jersey. We need help. We need assistance in a special form. We're not asking for money. We're not asking for a handout. We're not asking for state resources, state revenues to rebuild this community. We're asking for a vote to help ourselves." (New York Times, May 4, 1976).

Perskie's resolution passed the Assembly on a 52-23 vote and Senator Joseph McGahn, a co-sponsor, steered a companion measure through the Senate by a 24 to 9 margin, assuring his colleagues that strict controls and a limited number of licenses would dispel all doubts related to effective regulation of the industry and the ability of the state to prevent infiltration by criminal elements.

With the passage of the resolutions, proponents focused on the strategy for the referendum campaign. Recognizing the need for a wide spectrum of influential leaders, proponents formed the Committee to Rebuild Atlantic City (CRAC) which became the official pro-casino group (partly to offset the 1974 fears of those voters who wanted no casinos in their communities). Casino advocates then drew from California, Sanford Weiner, a political consultant experienced with referenda, whose firm had managed nearly 200 political campaigns, most of them successfully. Upon his arrival in New Jersey, Weiner conducted a poll that revealed the split among the electorate on the casino gambling issue: one-third favorable, one-third against, one-third undecided.

The aforementioned financial factors, an economic recession, a new state income tax, and New York City's fiscal perils, had already placed proponents in the advantageous position of presenting casino operations as a revenue-raising mechanism that would soften the impact of pending fiscal problems. Given the economic rewards casinos could bring, the proponents set out to overcome doubts tied to social impacts:

1. The campaign sought to show casino gambling as a positive activity - an increasingly middle-class, leisure-time interest for vacationing tourists with discretionary income to spend.

2. Casino gambling was portrayed as just another socially acceptable form of specialization and risk taking -- similar to playing the stock market.

3. By bringing this one portion of the underground economic sector back into the mainstream economy, profits would be drained from organized crime syndicates and pumped into the legitimate economy.

4. New revenues would pour into the state treasury to help senior citizens and the disabled; new businesses would be established, new jobs (ranging from estimates of 19,000 to 33,000) would be created.

5. If there was concern about organized crime, such fears would be allayed by drafting the strictest gaming control laws in the world.

This last point, gaming control, was a salient issue in the campaign.

Central to the debate between the adversaries was the ability of the state to prevent infiltration of the industry by organized crime. Advocates needed only to convince the undecided one-third of the voters that controls would be rigid and effective to assure the campaign's success.

The opposition to casino gambling in 1974 had been centered around religious leaders with the active assistance of the United States Attorney. With a comparatively minuscule outlay of funds, opponents had defeated the proposal. This same group reemerged in 1976 but with less effectiveness. In addition to the moral leaders, opposition came from the law enforcement officials who, appealing to a wider audience, cited the threat of organized crime's ability to infiltrate and

control the casinos. The United States Attorney warned that "It makes no sense at all to create in our state an environment that is certain to attract criminals¹ of every type."

The absence of a powerful, anti-casino coalition did not mean that opponents lacked powerful supporters. The New York Times, a consistent critic of casino gambling, in one editorial warned that with legalization, New Jersey voters "will invite a cure worse than the disease" and "play directly into the hands of crooks,² gamblers and speculators."

But in Dombrink's view, the reality of the legalization opposition was its dependence upon the church leadership and the message it could deliver from the pulpit. This constricted base of opposition, and limitation of available funds, resulted in a failure by opponents to deal effectively with other issues where a strong offensive might have been more persuasive: organized crime, proliferation of gambling, and more specific attention to serious, unattended social problems in Atlantic City.

However, it should be noted that in this second round of referendum debate the opposition, once again sparsely funded, was up against a public relations expert in Sanford Weiner. Unlike 1974, when proponents spent vast sums to promote an uncertain proposal, Weiner, in 1976, was able to blunt every argument of the opponents with a counterstroke: An anti-casino vote, whether based on one's concern with crime, or one's moral views, or one's social attitudes, became, in Weiner's media messages, a vote against the elderly and disabled state-wide and against the struggling merchants and the unemployed in Atlantic City.

Casino proponents were well organized and well financed. They set out to raise at least one million dollars, spend it wisely, and attract broad support. Major financial support came from Atlantic City interests who gave nearly 60% of

¹ U.S. Attorney Jonathan Goldstein, quoted in New York Times, Sept. 28, 1976.

² "Degrading Atlantic City," New York Times, July 4, 1976.

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the \$1.3 million in contributions received. Resorts International, which operated a casino in the Bahamas, and which was suspected of ties to organized crime figures, contributed \$200,000. The second largest contribution to the proponents' campaign, the Chalfonte-Haddon Hall Hotel in Atlantic City, was a fully-owned subsidiary of Resorts International.² Indeed, four of the pro-casino contributors, Resorts, Chalfonte-Haddon Hall, Howard Johnson's and the Atlantic City Press, each gave more money to the proponents than was collected in the entire operating budget of the opposition. It is of interest to note that more than 90% of the proponents' support came in large amounts from corporate interests while half of the opponents' funds (grand total of \$23,230) came from contributions of \$100 or less.

Finally, the proponents defused the most troublesome issue in the campaign, viz., organized crime, because (a) opponents focused on the morality of gambling although they tried to exploit the history of Resorts with its legacy of corrupting Bahamian officials and its suspected ties to Meyer Lansky, a notorious underworld figure; (b) no prominent state officials took a stand against the role of Resorts; (c) proponents stressed that the state would devise a strong control mechanism; and (d) the state officials who might have blocked Resorts instead embraced the corporation as an investor.

The main sell in the campaign was in one sense an appeal to voters' emotions: (1) the quieting of fears by way of legislation that promised strong controls, and (2) the offer of hope -- for tax relief, for employment and for a lifeline to a dying city. Most important, the active support of the Governor, and other influential interests in the state not only gave strong impetus to the measure but deprived anti-casino forces of powerful, prominent and well-financed sources of opposition.

¹ New Jersey Election Commission,

² Ibid.

In the final analysis, given the advantage of a proposal that featured substantial economic benefits and the promise of strict regulatory controls, it was political know-how that ensured victory for the casino proponents. From the industry's hiring of surrogates in Trenton to speak its cause, to its embracing of local officials in Atlantic City to smooth its path, to the use of expertise in the campaign sell, to the enlistment of political power figures in crucial areas of the state, the proponents demonstrated an understanding and use of power politics that could serve as a case study in any academic course on applied practical politics.

Florida: The Promise of a New Tourist Industry

With New Jersey's decision to legalize casinos, attention turned to other states considering the issue. Miami Beach hotel owners brought Sanford Weiner, the successful manager of the New Jersey campaign, to Florida in hopes that he would duplicate his success. But Florida, the pro-casino forces soon discovered, was not as fertile ground for casino expansion as was first believed. In the wake of the public cynicism generated by the Watergate scandal, with a popular reform-minded Governor, and with a business and banking community that had labored hard to develop Miami as a trade and financial capital, the prospect of incorporating disreputable elements into the economy was anathema to the state's image of expanded business opportunities and its family oriented tourist industry.

The Florida referendum on casino gambling, which was on the November 1978 ballot, proposed legalization of casinos along the state's Gold Coast and in Miami Beach in particular. The proposal failed, with only 27% of the voters favoring the question. Anti-casino forces carried every county.

At the outset, it should be pointed out that Florida's economic, social and political structures are quite different from those of New Jersey. Moreover, in the mid-1970s, Miami was emerging as a strong international trade and banking center. Eleven American banks and eight foreign banks opened Miami branches during the seventies to serve the Latin American trade. Freight cargo out of the port of Miami, most of it to Latin America, tripled in the same period.

Florida is not as homogenous as New Jersey. There are four areas having distinct identities: (1) the Panhandle, in the north, which stretches from Jacksonville on the east coast to Pensacola on the Gulf Coast near the state's western extremity. Sometimes described as a rural, redneck area, its population includes a large strict-Baptist denomination, mostly Democrats and largely anti-casino; (2) Mid-Florida, beginning at Daytona Beach in the east, and winding southwest through Orlando, Tampa Bay, Sarasota, and ending at Ft. Meyers. Often referred to as the I-4 Corridor (Interstate Route 4), this area contains an estimated 50 to 60% of the state's registered voters, and has a healthy, expanding and diversified economic base; (3) the Upper Gold Coast, which is made up of affluent seashore communities on the southern east coast beginning at West Palm Beach and running down to Fort Lauderdale. Although traditionally politically conservative, this area, according to a poll taken in the summer of 1978, favored casinos by a slight margin; (4) at the tip of southeastern Florida is the Greater Miami area, with its heavily Cuban and Jewish concentrations and which is the most urban area of the state. Culturally pre-disposed toward gambling, the 1978 survey indicated 62% of those polled held a favorable attitude toward casinos.

The legalization proposal and the advertised benefits were generally similar to the New Jersey model. Whereas in New Jersey, a special fund was set up for tax revenues reserved for services to the elderly and disabled, in Florida, the taxes were to be set aside for education and law enforcement. In this way proponents hoped to still the opposition's claim that casinos would generate crime and corruption and cause much of the revenues to be diverted to rising costs of law enforcement.

The earmarking of funds for education and law enforcement was believed to be a persuasive feature. All 67 counties in Florida would receive an equal share of the revenues. Thus, counties which, by their location, would not share in the promised jobs, tourist activity and construction benefits, would nevertheless get

no less than counties receiving such direct benefits. Dade County, which includes Miami, would still enjoy substantial benefits: \$147.7 million tax revenues, a near 40% decrease in the property tax; a \$37 million annual payment to the county school system; 89,000 new jobs; \$1.7 billion in new payrolls; and \$3.7 billion in capital investments in hotel and residential housing construction.

The Decline of Miami Beach

While Miami Beach still attracts a sizeable number of tourist and convention visitors, particularly drawing from its traditional base of long-term, middle-aged visitors from the northeastern states, it experienced a notable decline in the 1970s from the peak tourist and commuter traffic of the previous two decades.

Competition from other tourist areas has cut deeply into the Miami Beach trade. Since Disney World opened in 1972, Central Florida has drained much of the motor tourist traffic from Miami. The expansion of jet airline travel has made several resort areas in the Caribbean, Mexico, Hawaii and Europe more accessible and attractive to the affluent winter tourist that Miami Beach depended upon. Lesser known resort developments in the South and Southeast are increasingly competitive, offering more diverse facilities and more modern accommodations. Convention traffic began to show signs of decline in the mid-seventies. In addition, the Miami Beach clientele is, on the average, much older than most vacation areas, and contributes to the image of Miami Beach as a resort for the elderly. With the failure of the older tourist trade to replace its dwindling numbers, there has also been a decline in the quality of hotel accommodations. Owners are not reinvesting profits in improvements, others are experiencing financial difficulties. According to an Economics Research Associates report in 1978, 12 Miami Beach hotels went bankrupt between 1974 and 1978, and some were demolished.

With this background, Miami Beach hoteliers saw in the prospect of casino legalization, an opportunity for the area to recover some of its lost prominence. The Economics Research Associates (ERA) study commissioned by the Let's Help Florida

Committee proposed the legalization of casino gambling as a natural remedy for the decline of Miami Beach:

As demonstrated in this report, Miami Beach has in recent years experienced a decline in its tourist trade. This trend is expected to continue, possibly at an accelerated rate. A major reason for Miami Beach's declining tourist appeal is the historical lack of reinvestment into the local economy, especially into the hotel/motel industry. The existing situation calls for policy stimulus to induce investment into the local economy, in order to upgrade Miami Beach's declining image. Without such a stimulus, private investors are unlikely to invest into the economy, leading to further deterioration in Miami Beach facilities, thus a further decline in tourist appeal, and so the spiral begins.

Legalized casino gambling in Miami Beach is an alternative in attempting to reverse the diminishing tourist trade.¹

With the exception of \$47,000 contributed by hotel service industries, and \$55,000 from assorted businesses, the Let's Help Florida pro-casino committee depended exclusively on financial support from hotel interests -- more than \$2² million.

Among ERA projections resulting from legalization of casinos were: an annual aggregate of 22 million persons visiting the casinos; the need of 27,000 more hotel rooms to accommodate the overnight visitors; more than 38,000 jobs (compared to about 20,000 seasonal jobs then current); and revenues of more than³ \$120 million.

Anti-casino forces disputed the ERA picture of Miami Beach as a dying resort. Much of the resort's fading popularity, the opposition countered, was the fault of the same hotel owners who were backing the casinos.

¹ Economics Research Associates, Background and Trends of the Miami Beach Economy, Interim Report #1. Prepared for the Let's Help Florida Committee, April, 1978.

² Let's Help Florida Committee, Campaign Treasurer's Report, 1978.

³ Ibid.

The Opposition Coalesces

The opposition, led by Governor Reuben Askew, received contributions from four major sections of Florida's economy:¹

1. Financial Institutions	\$261,800
2. Tourist Attractions	50,000
3. Media	220,000
4. Other Businesses	160,000

With respect to the banking community, it is important to note that (1) bankers had been active partners of the Governor in his program to make Florida a principal international banking and trade center; (2) historically, bankers were suspicious of the casino industry because of its roots in organized crime, its history of skimming operations and its lack of internal controls; and (3) the role casinos might play in the disposition of funds generated by the underground drug-import business.

In addition, the news media threw its weight behind the anti-casino effort. A total of \$191,000 was contributed by major Florida newspapers.² The publisher of the Miami Herald, the state's major daily newspaper, defending his position as contributor and activist in the anti-casino campaign, explained that he was a businessman and that casinos in the Miami area would be a serious threat to the South Florida economy and an equally serious threat to the future economic health of his publishing enterprise. It was also noted that Atlantic City newspapers had contributed to pro-casino efforts - the Press had donated \$45,000 in 1976 - and that the gambling referendum was not an ordinary issue. The editor of the St. Petersburg Times defended his contribution in similar terms:

We are obligated to consider the long-range development of this state and convert this fragile tourist economy into something significant. Industrialization and casinos aren't compatible.³

¹ Florida Division of Elections, 1978.

² Ibid.

³ Quoted by Jeff Prugh, "Improbable Allies Oppose Casinos in Florida Vote." Los Angeles Times, September 25, 1978.

It was the Miami Herald which brought the organized crime question to the forefront of the campaign with articles that examined the potential for organized crime growth and accompanying political corruption as a result of casino legalization. Miami was no stranger to organized crime. Miami Beach was a favorite meeting place for notorious gangsters from various parts of the country. Mob-controlled casinos operated openly in Miami in the 1940's and because of its proximity to Cuba there was much interaction between southern Florida syndicate figures and pre-Castro Cuban casinos. The presence of Meyer Lansky in Florida in 1978 was made to order for anti-casino forces in focusing the organized crime issue. Lansky had been quoted in the Miami press as saying that the mob wouldn't infiltrate legalized casino gambling in Florida "because there is no such thing as organized crime." ¹ This was the same Meyer Lansky who, with some Miami Beach hotel men, had been indicted / ^{for} conspiracy to skim \$36 million from Las Vegas casinos, and who was believed to be involved in / ^{the} corrupt influencing of Bahamian officials so as to operate the casino at Paradise Island owned by the same Miami-based Resorts International that had gained a head start on casino profits at Atlantic City.

In late October 1978, shortly before the referendum vote, an electrifying bit of testimony before the U.S. Senate Permanent Subcommittee on Organized Crime virtually drove the final nail into the coffin of the pro-casino forces. John Charles Piazza III, a convicted narcotics smuggler, testified that in 1972 he discussed plans with Meyer Lansky in Miami to act as front for a casino legalization drive and to skim for Lansky, once casinos were legalized.

By the time of the Piazza testimony, however, the fate of the casino referendum had been determined. Led by the Governor and a business community that had raised and spent \$1.6 million effectively by way of poll-taking, low-key but well written prose, timely and convincing television and radio messages, the anti-casino campaign had made it unpopular for any opinion leaders to take a favorable position toward casinos.

¹ Milt Sosin, "Meyer Lansky Says There Is No Mob Crime," Miami News, February 10, 1978.

From the start, proponents were described as outsiders, - people who were unknowledgeable as to the needs and desires of Floridians. Instead, they were cast as promoters seeking a financial killing by way of increased hotel construction and property values along the Gold Coast. Hotel owners, described as millionaires, were portrayed as greedy to become multi-millionaires.

Strategic and Tactical Errors

In general, however, in Dombrink's view the anti-casino forces succeeded because Floridians were unwilling to accept the legalization of casinos as a means to improve their economy and relieve tax problems. Florida was among a handful of states - most of the others small - where the tax bite was being reduced, instead of expanding ahead of, or at the same rate as, the national average. Thus, a pro-legalization argument that a fiscal crisis, combined with the deterioration of Miami Beach as an attractive resort town, compelled Florida to accept casinos as an innovative plan for economic development and a relaxation of the tax burden was presented to an electorate which was not as desperate as had been the residents of New Jersey. While Atlantic City's demise was an acute example of New Jersey's fiscal problems, Miami Beach's decline was at odds with the relative prosperity of the Florida economy.

Las Vegas and Atlantic City were instead used as negative examples by the opponents. Atlantic City's early financial success with casinos never became a strong point for the proponents; instead, the adverse social impact of legalization in Atlantic City, e.g., senior citizens evicted from their inexpensive housing to make way for speculators, the municipal problems stemming from uncontrolled growth, the attendant police expenditures for increased law enforcement, was emphasized by anti-casino advocates. The Governor argued that in Nevada, casino industry money found its way into the political process, and predicted the same - with dire consequences - for Florida. Nevada was also shown as having high crime and suicide rates - not the "quality of life" that Florida projected and hoped to share in through legalization.

The proponents also never recovered from the anti-casino group's challenge to the accuracy of the data base and assumptions employed by the Economic Research Associates, the consulting firm which did the advocates' projections. This contrasted with New Jersey, where the benefits were defined by the proponents, and went unchallenged.

The problems of the proponents' Let's Help Florida campaign were noteworthy. Proposed gambling control legislation had been used in New Jersey to assure voters that the state would enact the world's strictest gaming control regulations. In Florida, the proposed legislation was changed in mid-campaign to allow as many as 40 casinos on the beach, when earlier drafts had specified only seven possible casinos.

Morality and Economics

The moral-economic tone of the opposition was crucial. Unlike New Jersey, where a church-led opposition had sounded an anachronistic religious and moral opposition to gambling, Florida's opposition was geared to possible negative impact on business, especially tourism, international trade and finance, and new industry. Florida's current tourist industry, Miami Beach's decline aside, was large and healthy, and catered to a different clientele than casinos would. Much was made of this in the opponents' literature, as casinos were portrayed as inimical to family tourism, the strength of Florida's rising tourist economy as illustrated by Disney World and other family oriented attractions.

Miami Beach was, at the time of the election, being presented as an international trade and finance center, and this had several complications. For one thing, the opponents could point to the rise of Miami as a hemispheric capital, and show that the economy of South Florida was healthy and thriving. The anti-casino assertion that "Miami's future is brighter today than at any time in the past 15-20 years," seemed to deflate the economic crisis issue. Instead, the question was posed another way: "Would the taint of the organized crime-associated casino gambling industry actually impair Miami's ability to attract new visitors?"

One observer remarked after the campaign was over that it had come down to the "big promise" vs. the "big scare." If that was true, the manner in which the "scare" took shape undoubtedly accounted for the results. The characterization of legal casino gambling as "painless prosperity" never took hold. Opponents challenged the notion that it was painless, due to the many offsetting costs of legalization, and they even questioned the basis of the prosperity argument.

In Dombrink's words:

The Florida anti-casino campaign proved the value of effective mobilization around a perceived threat. The mobilization of the local power elite around a well-financed and professional low-key campaign gathered those whose real interests might be threatened by legalization of casinos there. Given the state of the Florida economy, Florida voters could be approached with the argument that their material interests were threatened, rather than served, by the integration of a potentially lucrative - yet financially suspect - legal casino industry.¹

Prospects in Legalization of Casino Gambling

Some judgments may be made based on the lessons of the campaigns to legalize casino gambling in New Jersey and Florida.

The New Jersey experience serves to illustrate conditions that suggest a likely possibility of success in a campaign to legalize casinos. In New Jersey, it was possible for proponents to appeal to the electorate on an issue where there was a clear public consensus: the need for economic revitalization. Secondly, an appeal to the material self-interest of individuals and particular groups was possible: local property tax relief, distribution of gaming tax revenues to aid the elderly, jobs for the unemployed, and reserved funds for economic development. Thirdly, it was possible to appeal to an electorate already tolerant of other forms of gambling made respectable by legalization: lotteries, pari-mutuels, etc. Fourthly, it was possible to appeal to an electorate willing to give its approval to casino gambling upon the assurance of certain restrictions: confinement to a specific area,

¹ Dombrink, supra, p. 249.

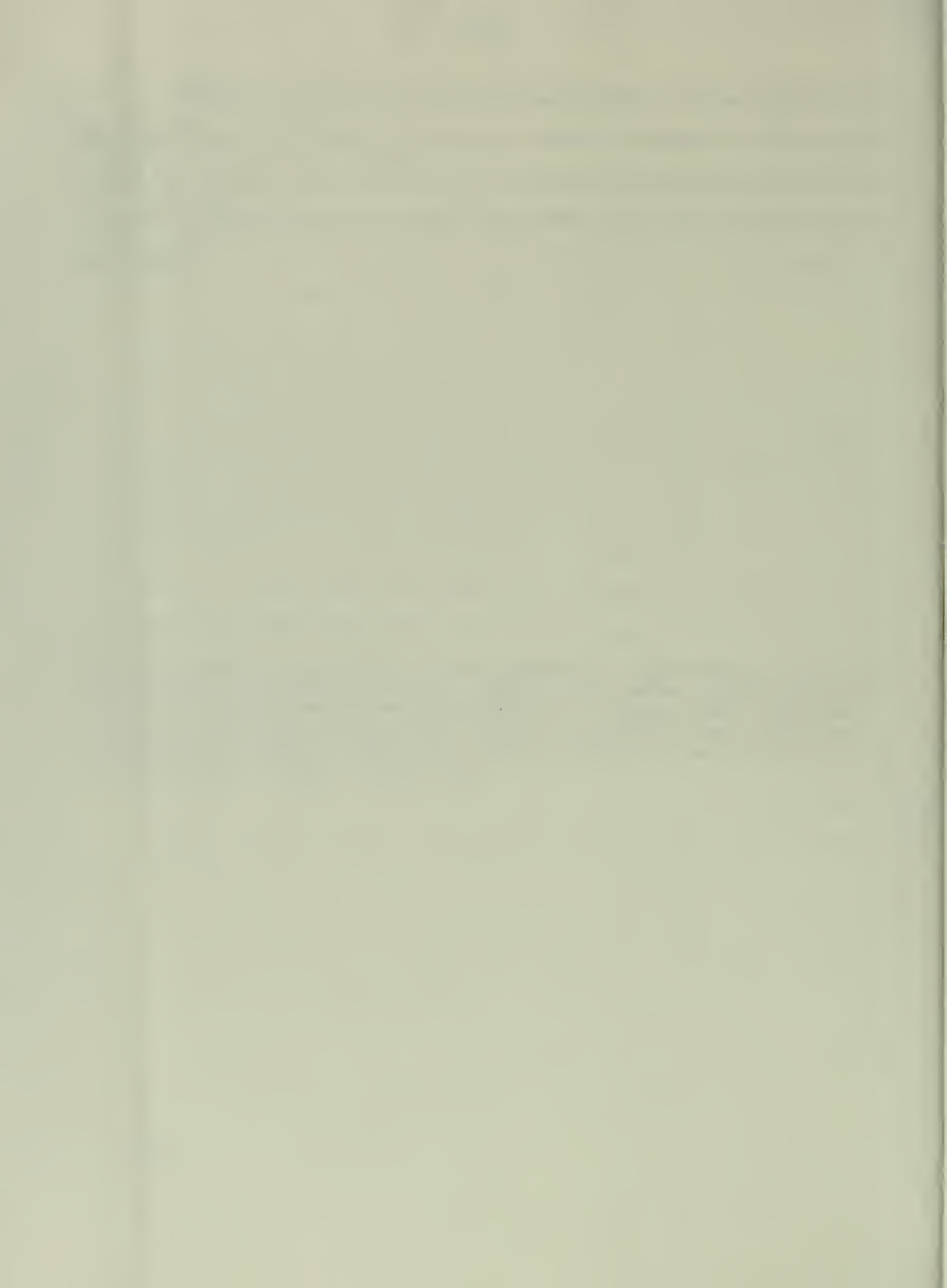
operation under specific economic restraints (tied to hotel and resort development) and subject to specific legal controls. Fifthly, it was possible to neutralize the opposition because of the active support of key political and business leaders, support that was vital in defusing the issue of organized crime. Finally, conceding that substantial benefits would accrue to the industry, it was nevertheless possible to focus on the public's share of the economic and social benefits of legalization.

By contrast, the experience in Florida illustrates conditions that suggest a likely failure of a campaign to legalize casinos. Although the Miami Beach area was in a state of decline, its economic problems could hardly be likened to the near death rattle that afflicted Atlantic City. Moreover, the general economic condition of the state was healthy and the statewide per capita tax burden was not as severe as that of New Jersey. The appeal to particular groups by way of earmarked revenues to aid local schools and law enforcement agencies was not effective when opponents demonstrated that the proposed aid, when subjected to per capita and district analyses, was very minimal. Although Florida, like New Jersey, was conditioned to other forms of legalized gambling, Southern Florida's proximity to Cuba, where casinos in the pre-Castro era were openly controlled by organized crime figures, made the proponents' case difficult to sell. Unlike New Jersey, Florida's political and business leaders were united against casinos, stressing that the future economic growth of Florida lay in developing its obvious attraction as a family recreation area and in its favorable geographic location as a financial and trade center for the growing Latin American business. Finally, the media were allied with the opponents and were particularly effective in arousing the electorate to the threat of organized crime.

It would appear that among the lessons to be learned from these two campaigns, are the necessity of having a broad-ranged support base if success is to be achieved and, with respect to opponents, the need to challenge authoritatively and effectively proponents' claims as to economic benefits, social reform, and control mechanisms offered to neutralize the organized crime issue.

Dombrink states that the locus of the struggle over the legalization of casino gambling is over its very definition, either as something which taints the economy of a state or contributes to it - a determination flowing from the designation of the casino operators as either fronts for organized criminals or legitimate¹ businessmen."

¹ Dombrink, supra, pp. 266-267. With the infusion of large corporate bodies into the stream of casino operations, the target of anti-casino tactics would more likely be ancillary businesses in a position to influence casino management. Experience in Atlantic City provides evidence of ancillary businesses owned or controlled by persons or groups with criminal backgrounds seeking licenses required under the Casino Control Act.



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